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THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

DICK HANNA and THE CALIFORNIA-KOREA CONNECTION

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A PERSONAL PERSPECTIVE

By Ed Salzman

The 'old man's' desk

The late George Miller Jr., long-time powerhouse chairman of the state Senate finance committee, used to say that it was the Legislature's job "to put a bill on the old man's desk and let him do what he wants with it." (Miller used to call every governor the old man; if he were still alive today, he'd probably even use the term for 39-year-old Jerry Brown.)

If Miller had been in the Senate this year, the Legislature probably would have enacted some kind of a tax-relief bill. It may not have been totally to the liking of the Governor, but it would have been backed by a solid majority of senators and would have represented a compromise between the Senate and Assembly points of view.

There were two main reasons why the Legislature failed in its mission to provide property tax relief during its regular session this year: an over-involvement by the Governor in the legislative process and a lack of cohesion and leadership in the Senate. The Governor insisted on the so-called circuit breaker in any tax package, keying tax relief to income. It was that insistence that provided the rallying point for opposition to the bill. The Senate was so leaderless that it never did reach a consensus on the kind of bill it would accept and even sent two rival measures to the Assembly.

When Miller was alive, most major legislation in the fields of finance and education used to be worked out by Miller and his arch-enemy, the then speaker of the Assembly, Jesse Unruh. The bills were fundamentally legislative products, although the governor was often given a consultive piece of the action. Invariably, the laws resulting from this process were signed into law by the governor. They usually had such sweeping support in both houses of the Legislature that the governor wouldn't dare veto them.

Look at what happened with taxation this past year. By the time the issue came to a head, there was hardly anyone in the Senate who considered the measure produced by either of two conference committees as truly their bills. The proposals belonged primarily to Governor Brown. They were so complex that they proved the validity of the classic definition of a camel — a horse designed by a committee.

The Senate never decided on a bipartisan basis what kind of a bill would be acceptable. It just kept ideas by Brown, Senator Jerry Smith and Senator Nicholas Petris floating in the air as though somehow, at some point, something of value would land on the Governor's desk. The Assembly, meanwhile, went along with the Governor's approach hook, line and sinker (partly because some of Brown's notions originated with the Assembly staff).

When the issue of tax relief comes before the Legislature again, lawmakers will be faced with a series of demands from the Governor — with the circuit breaker the cornerstone of the Brown package. Perhaps, out of nowhere, a new George Miller will arise to lead the Senate down its own path and extricate it from exclusive use of vehicles built by the Assembly and the Administration.

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How-others-see-us department — James and Sally Flick of Cupertino received this letter from Attorney General William J. Janklow of South Dakota: "How is everything going out in California this fall? I see that things are going real well, given the fact that you've only had three inmates killed in the Soledad Institution in the last two months. You've had a gangland-style slaying in the Chinese quarter of San Francisco . . . You had a mafia-type execution in San Francisco . . . This is really distressing to me to know that you people are so uncivilized in California that you go around killing each other, but then one can expect that from those that live along the Pacific seacoast. 'Must be something in the salt air.' "

Why is Janklow a bit upset with California? Could the reason be Governor Brown's refusal to extradite Indian leader Dennis Banks to South Dakota?

The conservative organization headed by Richard Viguerie of Falls Church, Virginia, has designated Democratic Congressman Leon Panetta of Monterey as a prime target next year. Viguerie's "Right Report" is predicting a conservative gain of about 25 House seats in the 1978 elections.

The citizens of Long Beach will be delighted to hear that one of their legislators, Mike Cullen, has been called Sacramento's fourth assemblyman.

The bureaucrats are saying that the Legislature didn't go far enough in breaking up the state Health Department. These insiders are predicting that the new agency with control over Medi-Cal and public health programs will be almost as unmanageable as the present department.

The Assembly seat of gubernatorial candidate Ken Maddy will probably go Democratic next year. The early favorite: Fresno County Supervisor Bruce Bronson.

Pat Brown once asked Harry Truman whether he had seen Hubert Humphrey lately. Truman's response: "I spent a week with him yesterday."

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THE 40 COUNTS AGAINST HANNA

The Korea scandal's California connection

By GIL BAILEY

Representative Jerry Patterson of Santa Ana was vastly pleased with his new beard, grown during the August congressional recess. "It makes you look like a 220-pound Dick Hanna," said a colleague. The next day the beard was gone.

That incident is hardly funny to Richard T. Hanna, former House member from Orange County who, according to the Justice Department, was a major partner of Korean businessman Tongsun Park in his efforts to bribe members of Congress. On October 14th, Hanna was charged with 40 counts of conspiracy, bribery, mail fraud and failure to register as a foreign agent. If convicted and given the maximum sentence, Hanna could receive a total of 220 years in prison and $115,000 in fines.

And there is nothing a bit funny about the Korean scandal's California connection. It may cost two or three California members of the House their seats next year. It will be a major issue for Republicans, who claim with some justification a "coverup." And it casts a shadow much darker than most people realize on California and San Francisco politics. The Korea scandal was financed, at least in part, by commissions paid for the sale of California rice to Korea. And the "rice connection" helped revive a San Francisco shipping line acquired by the son of former San Francisco Mayor Joseph Alioto.

The indictment's charge

As a scandal, it has only one major drawback: Park departed from Washington well ahead of investigators from the Justice Department and from the House ethics committee. Of course, at that point Congress was about as interested in conducting an in-depth investigation of Korean money as it was in voting itself a pay cut. Later, Park left London ahead of a Justice Department indictment and a possible extradition effort. His speed and sureness of movement, his happy ability to be always just one step ahead of the Justice Department, have resulted in some bewilderment and a few shouts of laughter back in Washington. Be that as it may, Park is in Korea, and the Korean government says it isn't going to send him back to face the uncertain processes of justice in the United States. But Dick Hanna is still within the boundaries of the United States. He has moved from Orange County to Fayetteville, Arkansas, and for a time it appeared he might be cooperating with the Justice Department.

The 31-page indictment of Park raises lots of questions about Hanna. It charges a conspiracy to "corruptly provide a part of the commissions on the sale of rice to Richard T. Hanna and various other congressmen and senators with intent to influence the decisions and actions of said congressmen and senators . . . It was a further part of said conspiracy that Richard T. Hanna would aid and assist the defendant Tongsun Park in the distribution of part of the rice commissions." The indictment also claims Hanna took more than $100,000 in money and goods and services from Park, and Hanna's attorney concedes that the transactions, listed in the Park indictment, took place. For a time, Hanna was only an "unindicted co-conspirator," and the Justice Department held off formal charges against him. Usually, explained Charles McNelis, a former federal prosecutor who now represents Hanna, this means that an individual who might have been involved in a crime is cooperating with the government's efforts to bring others to justice.

On the day the Park indictment was made public, Attorney General Griffin Bell was asked if Hanna was cooperating. "I have heard nothing of it, if he is," replied Bell. However, McNelis reported that Hanna answered all questions put to him by the Justice Department, declining to take the Fifth Amendment.

"If I ask you if you like chocolate ice cream and if you say you don't, and I don't believe you, then would I say you are cooperating?" says McNelis in a sentence that might be translated as: "Hanna is talking, but the Justice Department doesn't believe what he is saying."

Hanna is saying that he is innocent, that he merely had a legal business and personal relationship with Park. And with Park in Korea, and no other witnesses able to provide direct testimony as to the Park-Hanna relationship, the Justice Department at first chose not to indict Hanna. When the second shoe fell, McNelis received a call from the Justice Department telling him, "We've indicted your boy." But a copy of the indictment was not made immediately available to the attorney so that he could respond to media queries in detail. "If they've got a case, let them prove it," he said. The Justice Department went relatively easy with Hanna, not arresting him, and allowing him to be arraigned at his own convenience in a gentlemanly manner.

The way it began

Dick Hanna is a former member of the Assembly, where he served as chairman of the education committee. He was a member of the House from 1963 to 1974, when he retired voluntarily. A 63-year-old Democrat, his survival in Orange County politics of the 1960's demonstrated considerable political skill. Hanna is a short man, bearded, pleasant, convivial and a traveling man. In 1966 or so, he met Tongsun Park. The indictments spell out the Justice Department's version of what followed:

It starts with a 1967 meeting between Hanna and Kim

Gil Bailey is a Washington correspondent for the Knight-Ridder newspapers and a frequent contributor to the Journal.

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Hyung Wook, a former director of the Korean CIA, who is now in the United States testifying before various congressional committees and the Justice Department.

"Overt act two" in the indictment came in 1968, when Hanna arranged a meeting between Park and San Francisco Mayor Joseph Alioto, who is the former head of the California Rice Growers Association. The Hanna indictment tightens the relationship with Alioto by stating that the former Congressman "recommended" Park as sales agent for the rice growers.

Alioto has testified that Park, with the support of the Korean government, forced him and the rice industry to use Park as the agent for multi-million dollar sales of California rice to Korea. A major portion of that rice was carried to Korea in ships belonging to the Pacific Far East Lines, which had been purchased by Mayor Alioto's son.

The rice connection was profitable for Park. The commissions on rice approached $8 million from one company alone, a company which has Joseph Alioto as its legal counsel. And the Alioto-owned Pacific Far East Lines, which had been losing money, began to make a profit.

Hanna, according to the Justice Department indictment, got 33 checks from Park, totaling $88,226.75, between April 12th, 1972, and December 12th, 1975. Park also sold Hanna a Cadillac, which he resold at a profit, and he purchased Hanna's house, the Park indictment said.

Attorney McNelis offers this explanation of the facts: Hanna borrowed $25,000 from a bank, which he in turn loaned to Park as a business investment. The checks cited in the indictment were the legal return on that investment. The loan was made, according to the Justice Department, on April 5th, 1971, and repaid on August 5th, 1971.

McNelis says that Hanna's interest in South Korea and the rest of Asia predates his association with Park. In fact, according to McNelis, Hanna first became interested in Korea while he was in the California Assembly, through a Korean orphan program sponsored by actress Jane Russell.

The attorney concedes there were frequent trips to Korea and elsewhere in Asia — some on congressional business, some on personal business and some for charity. "It's just the way you look at it," he says.

Other state legislators

Hanna is not the only California member of the House to have dealings with Park and/or the Koreans. The record shows a continuing and multiple Korean interest in California legislators — particularly, but not exclusively, with those close to the rice trade:

- Democratic Representative John McFall of Manteca received a total of $4,000 from Park or his agents, according to the indictment. The money went into an "office account" and was used for personal loans, among other things. McFall, as a result of disclosures of the payments, may face reelection problems. In addition, he lost his bid to gain a major House leadership post.
- Democratic Representative Robert Leggett of Vallejo is a close friend of Suzi Park Thomson, a Korean-born associate of Park, who has been repeatedly questioned by the House ethics committee and the Justice Department. Leggett too may face reelection problems.
- Democratic Representative Charles Wilson of Compton has made frequent trips to Korea and is now married to a Korean woman.
- Former Representative Jerome Waldie of Antioch received a $1,000 contribution from the South Korean ambassador for his failing campaign to capture the Democratic nomination for governor. It was a legal contribution, properly reported, but the publicity surrounding it may have blocked any Waldie appointment in the Carter Administration. Waldie tells of a flight he and Republican Representative Charles Wiggins of Fullerton took to Korea. The two of them were attempting to aid two American soldiers, convicted of murder by a Korean court. Hanna appeared on the flight and he seemed very familiar with affairs in Korea, Waldie recalls. Wiggins and his wife also were flown to Korea by the South Korean government, to make an address at a Korean university. In addition, Wiggins and Waldie were guests at dinners given by Suzi Thomson.
- Representative George Danielson of Los Angeles tells a somewhat similar story. He was in Korea on congressional business when Park approached him at the airport and introduced himself as a friend of Hanna's. Park suggested they have dinner together. Later, Danielson went to one or two of the parties thrown by Park in Washington. He notes that he was a relatively small fish at such parties. Guest lists included former President Gerald

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Ford, then a member of the House, and House Speaker Thomas P. "Tip" O'Neill.

• **Other California congressmen** have avoided any involvement in the Korean scenario. Representative Phillip Burton of San Francisco quickly returned to the Korean embassy an expensive gift given to his wife. Representative Norman Mineta of San Jose refused to cash in gambling chips given him in a Korean casino. His visit to the casino had been suggested by Suzi Thomson, then an aide to former House Speaker Carl Albert.

Care and feeding

The record shows there was good reason for the care and feeding of California congressmen. Testimony before a House Foreign Relations Committee subcommittee demonstrates that the Korean government, in the late 1960's, wanted more guns, more rice and more aid from the United States. Kim Hyung Wook, the former head of the Korean CIA, testified about a meeting in Seoul: "And thereafter Mr. Tongsun Park brought to Korea two U.S. congressmen, saying they were close friends to himself. The names of these two congressmen I would reveal in executive session . . . Then, the visit was concerned with the transaction of rice. Mr. Park requested our assistance in making rice transactions through Mr. Park himself and at the same time these two U.S. congressmen also came to me and requested such assistance. They state if this action was done they could add to their service in modernizing the Korean armed forces," Kim told the subcommittee. The two congressmen were Hanna and former Representative Cornelius Gallagher of New Jersey, according to committee sources.

Events marched swiftly after that meeting. Hanna introduced Park to Mayor Alioto. The mayor told the *San Francisco Examiner* later that he had negotiated what was up to then the largest shipment of rice in the history of the world between Korea and the United States.

"In the following year Congressman Hanna brought Mr. Park to me and said that he would be the exclusive representative of the California rice industry," Alioto explained to the *Examiner*. The Korean mission demanded in writing that Park become the agent. The Rice Growers Association protested to the U.S. ambassador in Korea, but were told by the embassy "in substance that the embassy could be of no help in the matter."

Park became the agent for California rice sold to Korea — at 50 cents a ton. In 1970 the Food for Peace program, paid for by American taxpayers, took over the purchases. Sales were made through the Connell Rice and Sugar Company, Incorporated, New Jersey. Joseph Alioto is legal counsel for the company. The company paid Park, or the companies he controlled, $7.8 million in commissions over a five-year period. When John Alioto, son of the former mayor, acquired control of Pacific Far East Lines, the company began shipping Connell rice to Korea. The shipping line also began to turn a profit.

Where did the money go?

Park's profit on the rice trade was staggering, but the public record does not show significant amounts being spent on members of Congress. "It's only a thousand bucks here and a thousand bucks there — peanuts, excuse the expression," reported a Justice Department source. The department is seeking a "rainmaker," a paymaster who actually rained many thousands of unreported dollars down on members of Congress. The indictments indicate the Justice Department believes Hanna was the key in Park's relations with Congress.

There is, of course, one other theory which generally fits the stupidity, rather than the conspiracy, theory of history: What if Park was a con man par excellence? Suppose he duped the Korean government into believing he was bribing the Congress to vote the way it was going to vote anyway? Perhaps he threw a few expensive parties, dropped off a couple of bundles of money, legal and illegal, and meantime socked millions of dollars away.

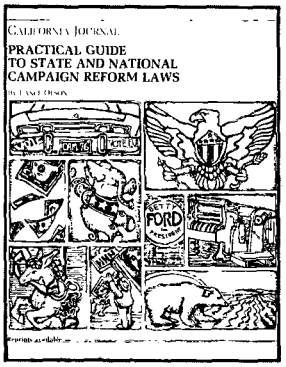
If this was the case, then the congressional investigators working under former Watergate Special Prosecutor Leon Jaworski and the Justice Department are going to have a tough time prosecuting.

The real loser, in any case, is the American public, which paid with its taxes for Park's bribes or con game or combination of the two. It will take next year's election to determine if individual congressmen, tainted by the Korean connection, will suffer from the public's anger.

Late news note: Patterson can now grow back his beard. Before appearing in court to plead innocent to the 40 counts lodged against him, Hanna shaved his off.

STILL AVAILABLE

The handy guide to campaign-reform laws



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PETE WILSON'S MEALTICKET?

The big June issue – public employee rights

By Ed Salzman

At the start of this year, it appeared that the big issue of the 1978 California political campaign would be capital punishment. Governor Brown announced in January that he would veto any death-penalty bill sent to his desk, and there was an immediate move to gear up an initiative campaign to circumvent the regular legislative process if necessary. But the Governor outsmarted the Republicans by sitting on his hands after vetoing the bill by Senator George Deukmejian and allowing the Legislature to override his veto. End of an issue.

Then it looked as though the anti-homosexual campaign of singer Anita Bryant, successful in Florida, might catch hold in California and become a big 1978 issue. But the gubernatorial candidate who jumped upon the anti-gay charger, state Senator John Briggs of Orange County, found that the horse didn't run very fast or very far in the state's political arena. Briggs is attempting to qualify a measure for the June ballot to prevent homosexuals from teaching in California schools, but it appears doubtful that he will round up the necessary signatures. And the early polls indicate that the public, at least at this point, is not taking his campaign very seriously.

Now there is a new major issue on the horizon that could dominate the Republican primary next June and perhaps the entire campaign season next year — the proposed anti-union initiative dealing with labor-management relations in the public sector. The proposal, cornerstone of the gubernatorial campaign of Mayor Pete Wilson of San Diego, probably will qualify for the ballot and spur another in California's long series of battles over organized labor. Every candidate for office next year will undoubtedly have to take a stand on the complex and emotional issue, and there will undoubtedly be millions of dollars spent on both sides.

Wilson hopes it will be his ticket to the Republican nomination. At the least, it gives him something to talk about. Perhaps more importantly, it is a hot potato for the leader in the polls, Attorney General Evelle J. Younger, who has boasted often about his excellent relations with organized labor. Younger has stated that he is against public-employee strikes but will not go so far as to endorse the initiative because his office may well become involved in litigation over the proposition. Assemblyman Ken Maddy of Fresno, who like Wilson is fighting for name recognition in the Los Angeles area, has come out against the initiative.

A plus with conservatives

For Wilson, the measure has a major advantage. It gives him status on at least one issue as a conservative. He has an image among many Republicans as a moderate or even liberal because of his limited-growth policy in San Diego and because he campaigned against Ronald Reagan for the presidency last year. Wilson, incidentally, has roped a large herd of Reaganites into his corral for the current campaign.

The San Diego mayor won a significant battle at the end of September when he convinced the League of California Cities to support the initiative — over the opposition of such mayors as Tom Bradley of Los Angeles and Janet Gray Hayes of San Jose. Wilson claims the Democratic majority in the Legislature is heavily dependent on public-employee unions for campaign contributions and thus is leaning too far in labor's direction. Bradley charged at the League of Cities meeting in San Francisco that Wilson is using the issue to bring labor-management relations "back into the dark ages."

The public employee unions are assuming that the Committee for Citizens' Rights, the formal name of the organization sponsoring the initiative, will succeed in getting the 500,000 valid signatures needed to qualify the initiative for the ballot in June. Wilson reported that 600,000 petitions are in circulation. An average of one name per petition would put the campaign over the top. Last month, the public-employee unions started forming a coalition to fight the Wilson drive.

The California Teachers Association took the lead in calling the unions together, but no immediate game plan was

A half-century old street scene in San Francisco's Market street, site of the Preparedness Day bombing of 1916.

Courtesy of the San Francisco Public Library

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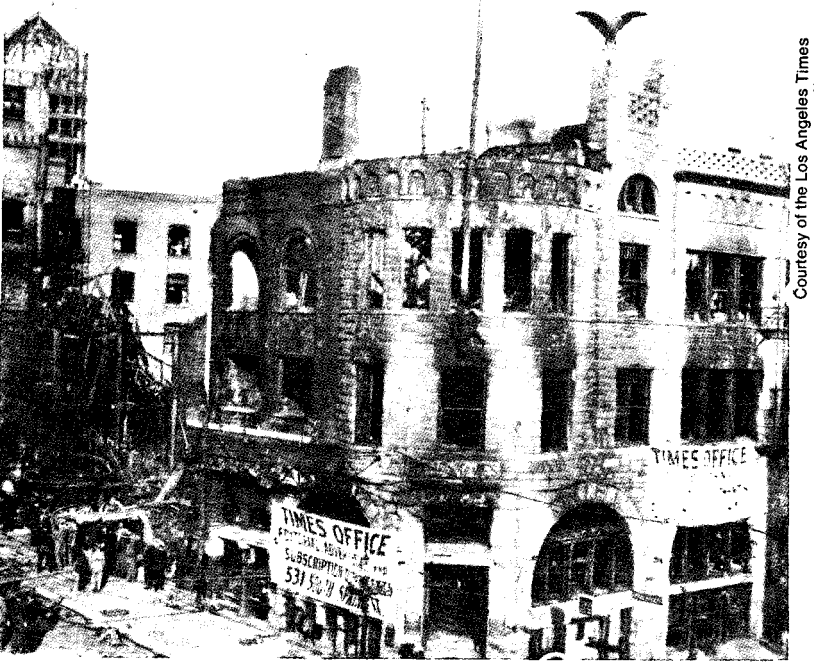

Courtesy of the Los Angeles Times

What was left of the Los Angeles Times after the bombing of 1910, which the paper called "the crime of the century."

developed. That is partially because some of the unions are used to fighting each other — those affiliated with the AFL-CIO on the one hand and independents like the CTA on the other. Some of the labor leaders who will have to work together to make the coalition campaign work don't like or trust each other, and they are wary about following the lead of their rivals. Nevertheless, they all know that they will have to cooperate and a delicate alliance will probably be formed. The first step would be the hiring of a professional political management firm, and the hot Winner/Wagner firm of Los Angeles and Sacramento appeared to have the inside track for the account.

The major task of the opposition will be to explain to the public the details of the initiative. The attorney general's office has given the proponents a marked advantage by writing this title for the measure: "Prohibition of strikes by public employees." The electorate in most communities could be expected to oppose strikes by a large margin, and conservative John Barbagelata was almost elected mayor of labor-strong San Francisco two years ago because of militance by city employees.

Much more than strikes

The proposed constitutional amendment goes much further than preventing strikes. Among other things, it is a "right-to-work" law for public employees because it bans the union or agency shop. It also would prohibit the use of binding arbitration as a means of breaking impasses in negotiations. Binding arbitration has been proposed by police and fire organizations as an alternative to strikes. Here is an outline of the major provisions of the measure:

- **Strikes would be prohibited.** (They are already, except for some transit employees, but public agencies have been unable to halt them nonetheless. If this initiative passes, the transit employees would lose the right to strike.)
- **Public agencies would be required** to dismiss all strikers. (This provision is already in force in some other states. There have been strikes in these states, however, because employees are aware that large numbers of skilled employees cannot be replaced overnight. They have usually organized large strikes, and public agencies have been forced on occasion to go to court and have the provision waived, making a mockery of the law, according to Gerald M. Pauly, director of personnel management for Sacramento County.)
- **It would be illegal** for a public agency to boost its offer to employees in response to a strike. (This is the provision that puts the teeth into the prohibition against strikes because it would remove the economic incentive from any walkout. Pauly, who has prepared an analysis of the initiative for Sacramento County officials, claims this provision would greatly restrict an agency's ability to settle a strike once one occurred. But if all the strikers were fired, there would be no need for a settlement; the striking union, in effect, would be broken.)
- **It would be illegal** for an agency to grant amnesty to strikers. (This is consistent with the firing provision.)
- **Public agencies could not enter** into any agreements requiring that employees join unions or pay dues as a condition of employment. (While case law currently prohibits such practices, this is the provision that will stir the juices of the labor movement, which had its year of glory in 1958 when it defeated a right-to-work measure applicable to the private sector. There are those who believe that the union-shop requirement forces moderates and conservatives to participate in union affairs, diluting the influence of the militants.)
- **Employee organizations** would be prohibited from using union dues for political purposes. (Individual union members could still contribute their personal time and money to candidates, and political education funds could be established with voluntary contributions.)
- **Binding arbitration** could not be used to resolve negotiation impasses. (This will probably be one of the most controversial aspects of the initiative. The League of Cities has argued for years that binding arbitration puts the economic health of a community in the hands of an outsider who has no direct economic stake in the outcome. The League claims strikes are preferable to this form of arbitration. Police and fire unions, on the other hand, maintain that strikes are intolerable if the safety of the citizenry is at stake and the use of an arbitrator is the fairest known method of resolving disputes. Sacramento County's Pauly feels that the provision is worded in such a way so as to prevent the use of arbitrators to resolve grievances under previously adopted rules; the alternative, he fears, is costly litigation.)
- **Mediation and conciliation** would be employed as a method of resolving disputes. (One problem here is that the initiative prohibits one labor organization from representing all employees. Thus it might be difficult to decide who the parties should be in mediation. Should mediation fail, it would be up to the public agency to make the final decisions regarding working conditions, pay, hours and employee rights.)

A difficult decision

It is obvious that Wilson and his allies will stress the anti-strike provisions, but the labor organizations have a difficult decision to make on which of the other provisions might sell best with the public. The union-shop prohibition would make an impact on AFL-CIO members but might not impress the rest of the electorate. Also, different strategies might have to be employed in different sections of the state — depending on the general attitude toward labor and the specific history of public-employee relations in each area.

Will this initiative spark another conflagration over labor in California? It was just 100 years ago that labor started organizing on a large scale in the state with the formation of the Workingmen's Party, mainly to fight off competition from Chinese laborers. In the 1880's, Burnette Haskell organized maritime unions in San Francisco, and strikes led to the formation of a shipowners' association. San Francisco eventually obtained a national reputation as the first closed-shop city in America, which was an exaggeration ex-

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cept in the case of the construction trades. In 1901, a violent strike in San Francisco led to the formation of the Union Labor Party, which eventually took control of the city.

Labor strife moved to Los Angeles early in the century when Harrison Gray Otis of the *Los Angeles Times* crusaded for the open shop in the southland. On October 1st, 1910, an explosion demolished the *Times* building and killed 20 persons. The *Times* called it "the crime of the century," and professional dynamiter Ortie McManigal and unionists John and James McNamara were arrested. The famed criminal lawyer, Clarence Darrow, was hired to defend the McNamara brothers, and he convinced them to plead guilty to save their lives. Six years later, labor-management fever ran high in San Francisco over the issue of preparation for World War I. During the Preparedness Day Parade on July 22nd, 1916, a bomb killed 10 persons on Market Street. Union agitator Thomas J. Mooney and four others were arrested. Mooney was later convicted but pardoned by Governor Culbert Olson many years later.

Unionism declined during the 1920's but made a comeback during the Great Depression. The next major outbreak of violence came on "Bloody Thursday," July 5th, 1934, on the waterfront of San Francisco. Two were killed and many injured when an attempt was made to break a longshoremen's strike. The National Guard was sent to the waterfront by Governor Frank Merriam, and a general Bay Area strike was called in response.

Except for the periodic efforts to upgrade the pay and working conditions of farm laborers, union-management activity was fairly low key during the terms of Earl Warren and Goodwin Knight, Republicans who were friendly to labor (or at least not unfriendly). This era of good feeling ended in 1958 when Republican William F. Knowland embraced a "right-to-work" or open-shop initiative in his campaign for governor. Labor mobilized its forces magnificently and defeated both Knowland and the proposition overwhelmingly.

Farm-labor agitation became a major issue when the charismatic Cesar Chavez took charge of the United Farm Workers and the importation of Mexican braceros was halted. Chavez' campaign resulted in the enactment of a farm labor law by the Legislature in 1975, and his union has won bargaining rights on many farms since that law went into effect. Chavez was slapped down last year when he tried to rewrite the law to his liking through the initiative.

The end result

Now, for the first time, it is the public employee who is in the center of the controversy. Public employment is the fastest growing sector of the labor market and is providing the only significant increase in union membership. Organizations like the California Teachers Association, the California State Employees Association and their AFL-CIO competitors have increasingly become major factors in the funding of political campaigns. The result has been a steady growth in the attainment of bargaining rights, the latest being the passage of a collective-bargaining bill for state employees in the 1977 session of the Legislature.

What will happen if the voters of California give management the upper hand through passage of the Wilson-sponsored initiative? Labor will have only one practical political alternative, as explained by Gerald Pauly: "If California, the most populous state in the union, were to adopt such a restrictive public policy . . . it is reasonable to assume organized labor would intensify its efforts to gain passage of federal legislation superseding the restrictive state law." Suddenly, all that money that now goes to candidates for state office would be funneled into the lobbying of the 535 members of Congress.

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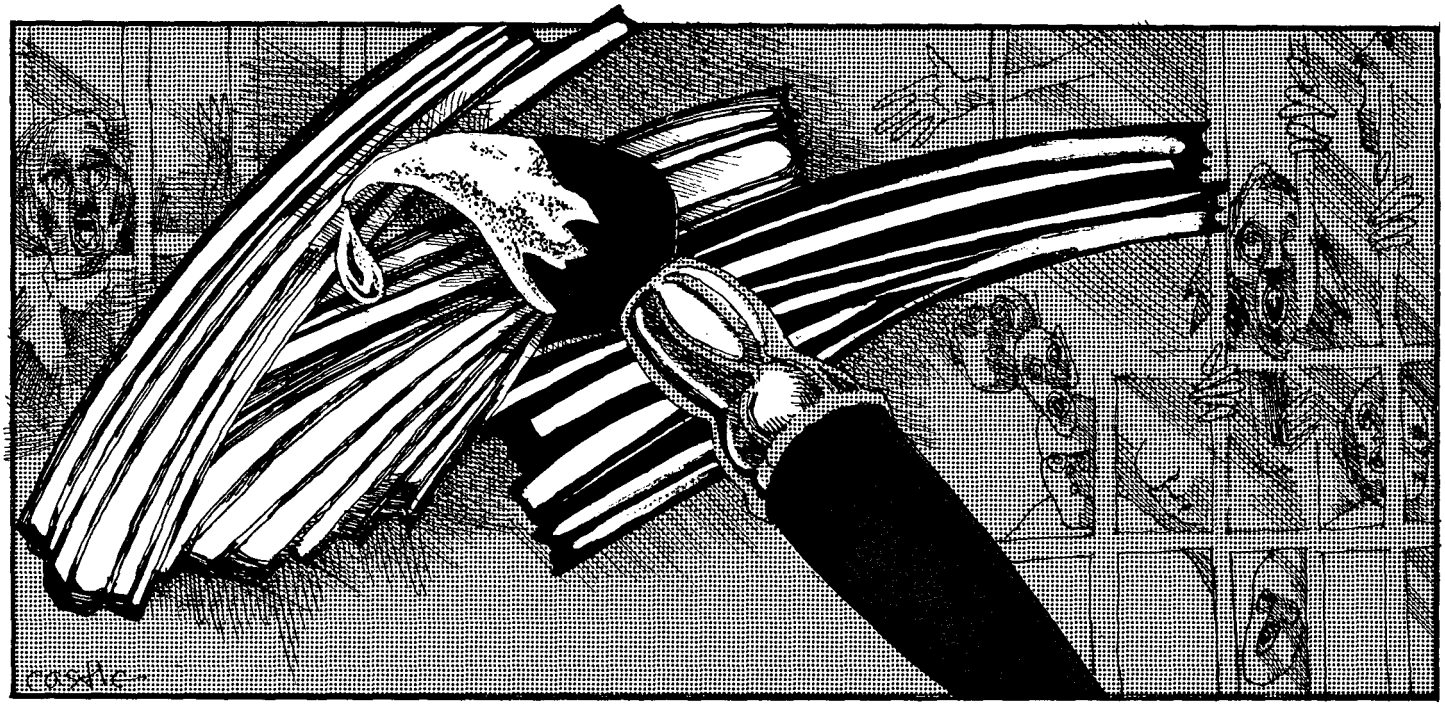
A CASE OF ADMINISTRATIVE MALPRACTICE?

Have conditions improved in state mental hospitals?



By SUSAN STERN

• **January 1976:** Deplorable conditions in California's state mental hospitals are reported by the Commission on California State Government Organization and Economy, better known as the Little Hoover Commission. The report produces no immediate response from Governor Brown or the Department of Health.

• **June 1976:** Nineteen-year-old Mark Holcomb, a patient at Metropolitan State Mental Hospital in Los Angeles, is beaten, apparently with a flashlight, and dies. The incident arouses a flurry of media revelations about conditions in the state's mental hospitals. The Los Angeles County coroner conducts inquests into Holcomb's death, along with four others. In Ventura County, a grand jury investigates 54 "suspicious" deaths at Camarillo State Hospital. Senate and Assembly health committees and the Little Hoover Commission conduct public hearings throughout the fall and winter.

• **November 1976:** The Little Hoover Commission asks the Health Department why it ignored the commission's January report.

Susan Stern, a free-lance writer in San Francisco, has been studying mental health for the past year under a grant from the Fund for Investigative Journalism.

"The ship was kind of dead in the water — no one knew how to respond," explains Ray Procunier, former director of the Department of Corrections and the newly appointed deputy director of the Department of Health.

What of allegations that deplorable conditions such as inadequate staffing still exist, asks the commission.

"That is not supposed to persist. That is not supposed to be going on now," Procunier says. "The hospitals are getting better, I am telling you. I really feel good about them getting better."

• **January 1977:** "Many of the deficiencies described a year ago still persist," the Little Hoover Commission says as it launches new hearings.

Procunier responds: "We're talking about old movies. No question that, prior to two or three months ago, there was a bad scene."

• **April 1977:** "There is little evidence, 15 months later, that conditions in state hospitals have improved." — the Little Hoover Commission Supplemental Report.

• **October 1977:** State health officials admit that $1.5 million a month of federal aid is being lost as a result of the health and safety violations in four mental hospitals: Napa, Pacific, Fairview in Costa Mesa and Agnews in San Jose. They also concede that nine of the 11 state hospitals could be

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decertified at the end of this year for similar violations, with a potential loss of federal funds amounting to $40 million a year.

The announcements were in sharp contrast to the positive image Procunier projected only a few weeks before in an interview. Asked if he was satisfied with the changes in state hospitals since last year, he said: "Absolutely. Or I'd make other changes. We haven't got all the problems solved — but no one can get them all solved."

Have conditions in state mental hospitals actually improved, as Procunier suggests? The Department of Health points proudly to new programs, new policies and new money poured into the system over the last 12 months. First the department handed three years of "suspicious" hospital deaths to local district attorneys for investigation. So far, only the suspect in the case of Mark Holcomb is being prosecuted.

Next, the department staffed each of the state's 11 hospitals with a patients' rights advocate and a special investigator. New policies followed, including guidelines for the use of psychoactive drugs, restraints, seclusion and "adversive" behavior modification.

Then came the money: $18.3 million in fiscal year 1976-77 to begin bringing hospital buildings up to fire and life safety standards; and $330,000 in fiscal year 1977-78 to double the staff training budget. In May Governor Brown authorized $50 million to implement new staffing standards over the next three years.

But despite these moves, three hospitals failed their Joint Commission on the Accreditation of Hospitals (JCAH) survey this year. Another four hospitals were decertified by the state's own licensing division in July, for failure to meet federal Medi-Cal requirements. It was these decertifications that caused federal officials to discontinue the $1.5 million in monthly Medi-Cal payments, effective July 30th. The state is keeping the hospitals open by making up the lost money, but patients are being denied their $25-a-week expense allowances because that comes from federal funds and the state has no authority to pay it. At the end of this year, nine hospitals — the entire system except for Metropolitan and Atascadero — will have to correct violations found by licensing inspectors in all of their intermediate care facilities, or else lose $40 million of federal aid.

Is the Department of Health simply faced with insurmountable problems? Or was the Little Hoover Commission right when it said the Department of Health "gives the resemblance of productive activity, but in fact represents the administrative equivalent of cardiac fibrillation . . . a condition in which the heart beats fast and irregularly, but does not pump blood."

The Vann case

Ray Vann was a 36-year-old Long Beach resident who died last summer in Metropolitan State Hospital. Vann was admitted in mid-August, at his own request, for treatment of hallucinations. "For his own protection" Vann was frequently put in restraints (tied to the bed with leather or cloth) during the next three days. "Had apparent seizure problem . . . unable to stay on feet," nursing records noted.

On Saturday, Vann's fourth day in the hospital, his wife and brother came to see him, but were turned away. Vann was tied in restraints in a seclusion room at 10 that night. At 3 a.m., according to the nursing notes, he was "screaming, hallucinating and terrified." At 8:30 Sunday morning the notes say he was "sleeping quietly." At 9 a.m. the staff found him dead. His legs were free of their ties and were flung over his head; his torso had slid under his still-strapped hands, and his neck had stretched fatally across the foot board.

"I don't know how he got into that impossible position by himself," his brother says. "And he never, as far as we knew, had any seizure disorder."

The Los Angeles district attorney declined to prosecute the Vann case. But the Department of Health recognized seclusion and restraints as a problem after other restraint deaths came to light.

In February the department issued a new restraints/seclusion policy. This policy limits their use to "emergency intervention to control behavior that is physically harmful to the client or others . . . but not for punishment." A Metropolitan psychologist, who requested anonymity, claims that restraints/seclusion are still used punitively and on hallucinating and possibly frightened patients.

The new restraints/seclusion policy also reemphasizes the old policy of checking suicidal patients every 15 minutes and others every half-hour, and charting the results. Whether such checks are actually made is difficult to prove. "You can stand there and watch and see that someone doesn't check the restraints every 15 minutes," says the Metropolitan psychologist. "The staff person can't do it because there's too much going on, or they just forget about it, and they say, what the hell, I'll chart it, and nine times out of ten it's okay . . ."

Camarillo patients' rights advocate Norm Kramer says that, given present staffing levels, it's impossible to keep up with the revised restraints/seclusion policies. Deputy director of state hospitals William Keating agrees: "A lot of new requirements get added but no one takes the time to add the staff."

The basic problem

Staffing. Sooner or later all the problems in the state hospitals come down to this. Until this year, staffing levels were based on 1968 standards for nursing staff and 1952 standards for professional staff. The staff turnover rate runs about 25 percent a year. The result has been a staff vacancy rate which hit 10 percent in the fall of 1976. And the nursing staff spends only 60 percent of its time in direct service, according to William Grimm of the California Association of Human Service Technologists.

To relieve the problem, the Department of Health drew up new staffing standards in 1973. These standards were not adopted until last December, following the completion of pilot programs and after last year's well-publicized revelations. The problem with new standards, however, is that they don't provide personnel to fill the new jobs. Trained psychiatric technicians are scarce, and scarcer still are doctors who are willing to work in the state hospitals.

Even if the 1973 staffing standards could be magically filled, the Health Department's original projections show that the new standards increase nursing staff and rehabilitation therapists but actually reduce the number of physicians, psychiatrists and social workers in programs for the mentally ill. The department is currently recomputing the hospital-by-hospital effects of the standards. Dan Ramsey, in charge of the computations, says that the 73 standards give a net overall gain in staff and a "flexibility factor which lets them (the hospitals) switch around 25 percent of the positions."

Will this shift in staff bring a shift in direction of treatment? "Well, we can't do therapy," says Metropolitan administrator Nick Burgeson in discussing the cut in social workers. "But the question is, did they ever do it in the first place?"

The July 1st summary report of licensing surveys states that "there are inadequate numbers of physicians to care for state hospital patients." But according to Keating, "There is no doctor shortage." The 1973 standards, he says, are suffi-

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cient if all the doctors are competent. Yet the July 1st licensing report states this: "Physicians for long periods of time have practiced poor, if not hazardous medicine." And a recent report by the Assembly Subcommittee on Mental Health and Developmental Disabilities adds that at Napa, Metropolitan and Camarillo — the three hospitals for the mentally ill — a total of 30 doctors are practicing psychiatry without formal psychiatric training. Keating says the Health Department plans to remedy these deficiencies by in-house training, rather than by firing physicans.

Why were none of the doctors whose lack of competence may have been responsible for deaths indicted? According to the Ventura County district attorney's office, their mistakes were deemed "simple negligence" — unintentional errors which anyone might make, rather than "gross" or "criminal negligence" — inexcusable errors or malicious acts.

New drug guidelines

Along with its revised policy on restraints, the Department of Health issued new drug guidelines in February. They were not well-received: Physicians at Napa threatened to sue, and doctors at Porterville State Hospital initiated a paperwork boycott. The department relented and permitted each hospital to draw up its own drug regulations.

Napa's former director, Dr. Abe Linn, says Napa's guidelines have cut the use at his hospital of phenothiazines, the major tranquilizers such as Thorazine, Prolixin and Haldol. But Metropolitan's printed guidelines specify that acute patients, in their first seven days, may receive dosages which exceed the Federal Drug Administration limits.

(Dr. Linn resigned last month as Napa's director, returning to his previous job with the state as a psychiatrist. Health Department officials say Napa's 125 violations probably cannot be corrected by year's end.)

To the problems of short staff, doctors practicing outside their competency and liberal drug guidelines, add the problem of outdated and contaminated drugs, also cited in the July 1st licensing summary. A Health Department task force survey of Metropolitan, conducted in March, said that the outdated drug problem had been solved, but the April licensing survey at the hospital showed the opposite. When asked about this discrepancy by the *Los Angeles Herald Examiner*, task force director Jack Gallisdorfer said: "Procedure and policy were developed. Whether or not individuals follow these policies and procedures is another question."

When Assemblyman Art Torres, a Democrat from Monterey Park, first called for an investigation into the state mental hospitals last September, he charged that patients left state hospitals in worse shape than they entered. Case studies indicate that the situation is unchanged. Who, or what, is responsible? The hospitals' new special investigators are going after the staff. To date they have turned 41 felony cases and 33 misdemeanors over to local district attorneys. They have turned 60 cases over to hospital administrators for punitive action, although fired employees often appeal to the state Personnel Board and win. The Health Department also has referred about 200 cases to the Board of Medical Quality Assurance for possible license revocation or other disciplinary action, according to Vern Leper of the board. Firing "bad apples," it seems, is just as difficult as prosecuting criminally — a feat which Ventura County Assistant District Attorney Michael Bradburg calls "impossible in 99 percent of the cases."

Ventura Deputy District Attorney Phil Eves believes this difficulty in prosecuting might be fair. "All these people — staff and patients alike — are victims of the same system," says Eves. "Even though the doctors' actions, taken in a vacuum, might be gross negligence, based on the fact that they were working at Camarillo, under those circumstances and procedures, the system has to absorb some of the blame."

William Craib, president of the California State Employees Association, states it even more strongly: "The Department of Health and especially the state hospital system has been so mismanaged that it borders on criminal neglect."

Words from the critics

Can the department be justifiably accused of neglect, and, if so, criminal neglect or simple neglect? There is no shortage of critics. Los Angeles Deputy District Attorney Dave Guthman, who has been practicing mental-health law for six years, calls the state's new patients' rights advocacy program "window-dressing" and claims it is "designed to head off other programs to protect patients' rights."

Mary Ann Bannon, director of The Mental Health Advocacy Program (MHAP), funded by the California Bar Association and serving patients at Metropolitan and Fairview hospitals, feels her program has been harassed by the Department of Health. She says it took pressure from legislators to help them get access to 72-hour, involuntary-hold patients at Metropolitan.

In response, Procunier offers this view: "It is very difficult for a closed organization to have outsiders coming and sticking their noses in. They should have been here the last 50 years."

Other Health Department critics claim that the department's recent firings of Licensing Director Charlene Harrington and Fairview hospital director Michael Levine reek of coverup and obstruct real changes in the system. Harrington, known for her tough enforcement of nursing home deficiencies, was fired one week after she decertified four state hospitals. "I do not believe that compliance has been viewed as a serious matter by Mr. Procunier, (hospital director) Don Miller and Dr. Keating," said Harrington at a Little Hoover Commission hearing.

Procunier responds that he was quite willing to decertify the hospitals and that Harrington was fired for "personal" reasons. "We now have plans of correction for each deficiency," he says.

Michael Levine, according to Keating, was fired for being too idealistic to work well within the state hospital system. Among other things, Levine reduced the level of medications at Fairview and tried to recycle the savings into increased staffing. "I like what he did," says Keating, "but I didn't always approve of his crash approach."

Levine's biggest mistake, according to Keating, was his refusal to "negotiate" licensing standards. He refused, for example, to open a door between two wards so that one nurse could fulfill the requirement for a nurse on every ward. The last straw may have been Levine's public announcement that, on the eve of hospital licensing surveys, his staff routinely wrote phony treatment programs into the patients' records.

"I think that did happen," Keating says of the phony programs. "I think that happens anytime you're going to be inspected, by anybody."

Is there anything wrong with that?

"Well," says Keating, "that, once again, goes back to (Levine's) belief in absolutes. Well, I don't know . . . That's not the real world. Ask any woman . . . If she's going out on a big date she's going to doll herself up a little bit. If you're going to call that dishonest, then you've got to call a lot of our social values dishonest."

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The suddenly controversial Little Hoover Commission

By MARGERY WINTER

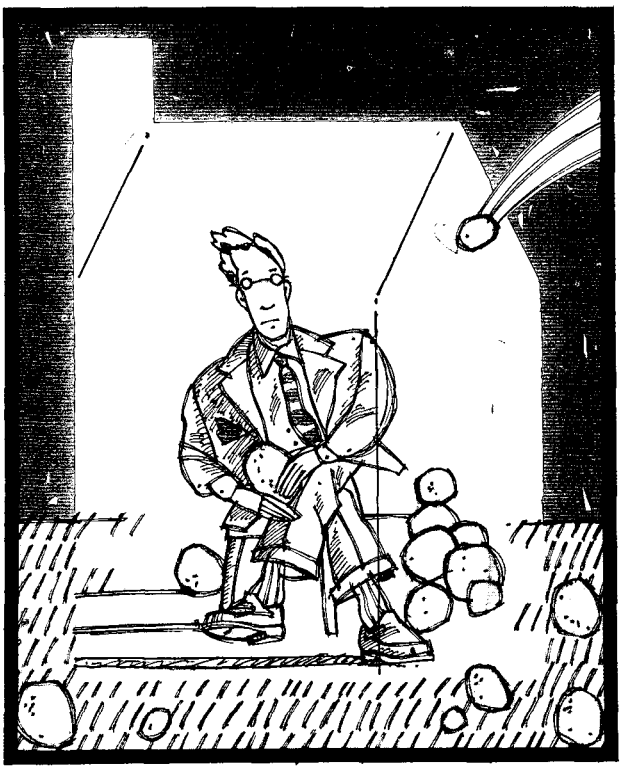
Controversy is not normally the stock in trade of the Little Hoover Commission. It has operated for more than 15 years with a small budget and low profile, offering advice to state government on how to be more efficient and economical. Sometimes the advice was accepted; sometimes it wasn't. In any case, the commission tended to mind its own business.

All that has changed this year. A virtual cold war between the commission and Governor Jerry Brown broke into the open in May when the Governor fired two commissioners. The commission has gone to court seeking exemptions from financial disclosure under the Fair Political Practices Act. It has issued harsh reports on two major state departments — Motor Vehicles and Transportation — and followed up on last year's devastating criticism of the Department of Health with a string of rehearings and supplementary reports. At one point, the commission even threatened to subpoena a confidential report from Governor Brown, after a letter asking for it was not answered by Brown's office. (The report, written by the attorney general concerning alleged irregularities in the Department of Health, was handed over.)

The commission's aggressive new style is in large part a reflection of its energetic chairman, Los Angeles builder Nathan Shapell. Not one to run from a fight, Shapell has been accused of turning the commission into a "heel-snapping coyote," by Deputy Health Director Raymond Procunier whose own department has taken its share of commission heat during the past two years. Shapell, in return, says the Governor is seeking revenge on the commission for its persistent criticism of the executive branch. That's why Brown is demanding that members disclose their finances, Shapell charges.

Behind all the conflict lies the unique nature of the commission, formally entitled the Commission on California State Government Organization and Economy. It began operations in April 1962, created by legislation authored by then assemblyman and now Senator Milton Marks of San Francisco. The commission is a bipartisan board of review over the organization and economical operation of the entire executive branch of state government. It is composed of nine private citizens (five appointed by the governor, two by the Assembly speaker and two by the Senate rules committee), two assemblymen and two senators. No more than seven of the 13 commissioners may be from the same political party. They serve without pay, other than reimbursement for expenses.

Because its official name is long and unwieldy, the 13-member body is generally referred to as the Little Hoover Commission, after the federal Hoover Commission created by Congress in 1947, with former President Herbert Hoover as its chairman. Unlike the California body, the original Hoover Commission had a short-term charge: to survey and recommend changes in the federal executive branch. Little Hoover is a permanent fixture, reporting to the Governor and the Legislature. In some cases it serves as a review body for complaints; in others it initiates studies on its own; sometimes it is invited into an agency to make recommendations.



The Little House of Hoover

Stepping on toes

"We're bound to step on someone's toes, just by the very nature of our purpose," says Les H. Halcomb Jr., the commission's executive secretary since it was created. Halcomb estimates the commission has saved the state at least $386 million in the past 15 years. The biggest savings came with the recommendation to collect commercial interest on state money, Halcomb says. Another $120 million was saved on the sale of unused land set aside for highways, and about $32.5 million on the sale of unused school sites, he says.

But the results of some commission efforts are harder to

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Little Hoover's report card

How well has the Little Hoover Commission done its job since it was created 15 years ago? It has conducted more than 25 studies of various state departments in that time, and recommended dozens of changes to save the state money and time. But by law, all it can do is advise. Is that advice accepted?

Here's a scorecard on some of the major reports the commission has produced:

- **AGENCY ORGANIZATION.** It was the commission that recommended that California adopt the agency concept of organization, to include all departmental activities within the framework of the statutory agency. Adopted.
- **GENERAL SERVICES.** It recommended that a General Services Department be created to be responsible for central staff services — a housekeeping department. Adopted.
- **PERSONNEL.** It urged, and got, legislation designed to upgrade top management personnel. One measure opened up promotional exams for top jobs, exams previously closed to all but current employees. But many personnel problems the commission has cited are still around, with only partial improvements. Salary step increases as incentives for superior performance are opposed by employee organizations — but the Personnel Board is toying with the idea of special merit awards. Top executive salaries are still not on a par with federal and other states' salaries, and sometimes too close to the pay of civil service subordinates. A recommended governor's committee to study that problem was appointed but never met. Most recently, the commission advised that state employees should stick with the Social Security system but that the Legislature should correct shortcomings. Score: Partial success.
- **RESOURCES AGENCY.** After study of this agency, the Goose Lake Compact Commission was abolished but other boards the commission thought should be axed were not. Many of them are more advisory than regulatory, however. Partial success.
- **LICENSING.** Obsolete safety and vocational licenses, which the commission called wasteful and anticompetitive, are still entrenched. So are all but three of the boards the commission felt should be eliminated. Failure.
- **NARCOTICS.** The state used to confiscate autos of persons arrested for narcotics violations. This proved expensive ($1 million a year) and didn't seem to deter narcotics pushers. The commission urged a halt. Approved.
- **BIDDING.** Millions of dollars were saved when the commission's recommendations were followed to permit competitive bidding in the purchase of Highway Patrol cars.
- **COUNTY FAIRS.** The commission's first major flap resulted from its criticism of state money subsidizing county fairs. Former Senator Randolph Collier of Yreka and former Assemblywoman Pauline Davis of Portola were incensed when the commission noted the close proximity of fairs in Northern California. Collier threatened a cutoff of commission funding and Davis introduced a bill abolishing it completely. Neither followed up, but the commission backed away from recommending that any fairs be abolished. Failure.
- **FEDERAL GRANTS.** Quite a few commission recommendations were followed in simplifying applications for federal planning grants. (The report was requested by Robert J. De Monte, then director of the Office of Research, who later became a Little Hoover commissioner — and was fired in May by Governor Brown.) Success.
- **UNUSED SCHOOL SITES.** School districts have sold off 133 unused sites and now by law are required to pay local government 10 percent of assessed value for vacant, non-used sites. There are 58 of these. Success.
- **PUBLIC UTILITIES.** The report on the PUC produced a mixed reaction. "Some points were well taken and others were ill-conceived and would have been a disaster," according to PUC information officer Eugene Raleigh. Since the report, the PUC is working on new trucking policies and attempting to cut down the time it takes to decide on major rate increases. Partial success.

assess. And as the commission wrangles with Governor Brown and goes to court to fight financial disclosure, the question is being asked whether its effectiveness as the state's watchdog agency is enhanced or diminished by the new atmosphere of controversy.

One of the most controversial commissioners is Chairman Shapell, a rags-to-riches businessman whose own dealings suggest the significance of public disclosure for commissioners. "If the price for public service is close scrutiny, then I am willing to pay that price," Shapell says. But at the same time, he is leading the commission's court fight to prove that strictly advisory boards should not have to file financial disclosure statements.

Shapell has made news in the past with his extensive feud with the Department of Transportation. Long before he was appointed to the commission, he fought many land condemnation suits with Caltrans and personally took some of them to court.

In a letter to Senator James R. Mills, whose rules committee appointed him, Shapell noted bitterly, "On all those properties which the Division of Highways condemned from the company, no freeways or access ramps were ever built, and upon resale the Division of Highways and the people of California, not Shapell Industries, reaped substantial profits."

Soon after being appointed to the commission, Shapell joined its subcommittee investigating Caltrans — while Shapell Industries was fighting another highway condemnation suit. Shapell headed the subcommittee when in 1972 Caltrans was charged with keeping land off the tax rolls through purchasing and condemnation. Shapell also headed the subcommittee which found 442 unused school sites purchased by the state.

Shapell's fellow commissioners say his expertise with construction and dealings with Caltrans make him instrumental in such subcommittees. The part-time, unsalaried commissioners must depend on research staff and their own subcommittees to handle several studies at once. But herein lies the rub: The most informed commissioners on the subject sometimes have a financial interest in it, too.

Shapell Industries is one of the state's major political contributors. In the 1976 campaign, it spread money generously, but with no recognizable pattern as to party or ideology. However, the company reported that its largest single candidate contribution went to Philip Anthony, former Westminster mayor and one of several Orange County officials indicted for improper reporting of campaign money. Shapell Industries has a lot of land holdings in Westminster. Currently the state real estate commissioner is investigating certain aspects of Shapell's ownership of condominiums in Orange County.

But whether Shapell on the commission has affected Shapell Industries' dealings with the state is open to question. In 1969, when the commission was probing Caltrans' excess land, Shapell Industries made a successful bid for $1.7 million in land. Bids are sealed and there is no way for improper influence there, Shapell and Caltrans say. But the company lost its $100,000 deposit when Caltrans would not extend the deadline by which the company had to pay the full purchase price.

Shapell Industries also deals with the Contractors' Licensing Board, subject of another study by the Little Hoover Commission. In 1973, during the study, a complaint was filed against Shapell's main subsidiaries for overbuilding in Seal Beach. The board dismissed the complaint because the city had granted variances to the homeowners.

The chairman of the subcommittee conducting the contractors' license study was Manning J. Post, who complained, also in 1973, against three subcontractors who built

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his Palm Springs home. Post said he first went to local authorities who suggested he complain to the board. Three separate hearing officers recommended dismissal of the complaints, but the licensing board's registrar, Leo Hoschler, overruled them upon Post's appeal. The subcontractors received suspensions of their licenses and were fined.

Post says that the initial state investigator of his complaints "was new and couldn't present his case well." He adds, "As a citizen and taxpayer, I am entitled to what everyone else is entitled to."

Post is a retired auto dealer who in 1965 suggested autos confiscated from narcotics violators be stored on cheaper land. Later his studies concluded such autos ought not to be confiscated at all, and an appropriate law was passed. In 1973 Post participated in a study of the vehicles owned by the state concluding that the state should sell off its cars annually or at least every three years, to get the most return for the least maintenance. Although existing policy dated from World War II when cars were scarce, auto fleet management did not modify it as drastically as the report suggested. "Every few years, some academic notices that the blue book price for cars a year old is the same as the state purchase price," said Robert Edwards, program manager for garage operations. "But strip-down models aren't as desirable on the market." Edwards said New York state tried annual replacement for a year and lost $4 million for its extra work. Edwards does not think the commission's recommendation had anything to do with Post's Volkswagen dealership.

Post was still involved in that dealership when he conducted a study on vehicle emission controls that recommended the Air Resources Board dump its standards for the more lenient federal guidelines. The study also recommended the board lower its violation penalties because courts might be reluctant to convict. There was "no real subcommittee" for this study, according to Halcomb, but there was supporting staff work.

Post also headed the subcommittee studying the DMV, while auto dealers were trying to build a court case against the department. He met with dealers in Los Angeles to solicit complaints, but the report concluded their evidence was "disappointing."

Sidestepping conflict

Other commissioners have sidestepped potential conflicts between their private interests and their public roles. For example, former commissioner James E. Kenney, a vice president of Pacific Telephone and Telegraph Company, declined to participate in the study of the Public Utilities Commission.

Does the public interest require that a strictly advisory body reveal potential conflicts of interest? Governor Brown says yes and, in a letter to Shapell last April, wrote: "It seems to me that an agency empowered to hold hearings, subpoena witnesses and compel the production of records would welcome rather than resist the opportunity to comply with both the letter and spirit of the Political Reform Initiative . . . In order to remove any cloud of suspicion, it is essential that the public know if members benefit financially or otherwise, from actions taken by the commission."

The commission sees it differently. Citing a supporting opinion from Attorney General Evelle Younger, commissioners say they are fighting for the right to privacy of hundreds of advisory bodies on both the state and local levels. Their brief in the suit against the Fair Political Practices Commission, filed with the Third District Court of Appeals, said this: "While the public undoubtedly has a right to know, an individual still retains his right to personal privacy."

Whether it's politics or principle that has produced the confrontation, the Little Hoover Commission and Governor Brown are eyeball to eyeball on the issue. No one has blinked yet.

The Media Message

What's wrong – and right – about the coverage of politics in California and the nation? Here are two new books that analyze root problems in the communications industry.

PHANTOM POLITICS
Campaigning in California
By Mary Ellen Leary

This long-awaited book, based on a *California Journal* study of the 1974 California election, reveals startling facts — still valid today — about the failure of the broadcasting industry to inform listeners about public affairs.

The author is a former political editor for the *San Francisco News* and a frequent contributor to *The Nation, The Economist* and other magazines. The 191-page book was published by Public Affairs Press, Washington, D.C.

REPORTING:
An Inside View
By Lou Cannon

In this 320-page study of newspaper reporting in America during the post-Watergate era, *Washington Post* reporter Lou Cannon probes such subjects as:

- the "cozy coverage of Congress"
- The California publisher who killed a story about a politician who later went to jail
- The "countinghouse" publishers who care only about profits
- "presidents and other manipulators"
- and dozens of other inside stories about the biggest names in the news business.

Copies of both books can be ordered from the California Journal Press, *1617 10th St., Sacramento 95814.* Reporting *is $10.55 hardback and $5.25 softcover, including tax.* Phantom Politics *is $10.55 hardback and $6.31 softbound, including tax. Postage is free on prepaid orders only.*

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'SKIN POWER'

The politics of nudity: black day for Black's Beach

By DONALD H. HARRISON

For the past three years, San Diego was revered by nudists as the only city in the nation which permitted them to swim in the buff at a public beach. But on "D-Day," as the city's September 20th election date came to be called, voters demanded an end to San Diego's unique status.

By a margin of 86,113 to 70,884 — roughly 55 percent to 45 percent — the voters called on the City Council to prohibit nudity on all city beaches without exception. The council complied quickly, voting 8-1 early last month to evict nudists from 900-foot long Black's Beach, the only "swimsuit optional" beach in the city.

Despite the obvious setback Proposition D was for San Diego nudists, "free beach" associations throughout California tentatively were assessing the vote as a victory for nudism. The fact that 45 percent of San Diego's electorate had endorsed skinnydipping in the nudists' view has bestowed their movement with legitimacy. Perhaps they were in the minority in San Diego, but the minority was a sizable one. And in the nudists' view, society has a duty to accommodate minorities — particularly those whose activities hurt no one.

Already nude swimming devotees of Los Angeles County have been contacting their counterparts in San Diego for advice on wording an initiative measure to establish the same "swimsuit optional" ordinance that was repealed by San Diego city voters. Similar organizing efforts are reported afoot in Santa Barbara and other coastal communities. California's next D-Day could be in any of the beach communities where nude swimming is practiced openly, albeit without official sanction.

(A partial roll of the state's favored beaches for nudism would include in Los Angeles County, the northwest side of Santa Catalina Island, Half Moon Cove, El Segundo Beach, Venice Beach, Santa Monica Beach, Topanga Canyon Beach, Zuma Beach and Point Dume Beach; in Santa Barbara County, Rincon Beach, More Mesa Beach, Haskell's Beach and Gaviota Beach; in San Luis Obispo, Pirate's Cove; at Big Sur, Pfeiffer Beach; in the San Francisco area, San Gregorio Beach and Devil's Slide; and in Marin County, Bolinas Beach, RCA Beach and Stinson Beach.)

Another battleground

While electorates in various cities near these beaches will be assessed to determine if their views are more liberal than those of San Diego's majority, nudists plan a simultaneous battle — in the courts. This scenario was outlined by Robert Jacobs, executive director of the San Diego Nude Beaches Committee:

Now that the San Diego City Council has declared nude swimming illegal at Black's Beach, Jacobs and other members of the committee plan to have themselves arrested while bathing in the buff. The media will be invited to the "nude-in" to witness the beginning of a legal test case — one which will rest on the legal theory that a vote of the people alone is not sufficient cause for a city to make illegal an activity that previously was legal. Making an activity illegal, argues Jacobs, should be done only upon a showing that the activity jeopardizes society — and not on the basis that in an election with a 43 percent turnout, 15,000 more people opposed nudity than favored it.

A freelance writer, Jacobs draws an analogy between the planned disobedience at Black's Beach and the lunch counter sit-ins during the Civil Rights era of the 1960's. At one time, he said, a majority of the people would have voted to prohibit Blacks from eating at the same counters as whites. While not contending that the U.S. Constitution protects nudism, Jacobs does contend that it requires that no rights be abridged without due process of law.

The question of crime

He maintains that nudists obtained a vested right to use Black's Beach over the three years that such use was legally sanctioned. The burden in the courts, he hopes, will be for the city to show why that right should be taken away. And, in such a controversy, considerable emphasis will be placed on surveys by the San Diego Police Department that, prior to the election, crime at Black's Beach was less prevalent than at other, "clothing mandatory" beaches. The crime issue, closely linked to the issue of morality, was one of the most fiercely debated during the campaign. But police statistics tended to back up nudists' claims that because of the inaccessibility of Black's Beach and a "self-policing" program by regular beachgoers, crime at Black's Beach was not a problem.

For those communities which may have nude beach elections in the future, a review of the Proposition D campaign may be useful. Key to the controversy in San Diego was the location of Black's Beach, named for landowner William Black Sr., who donated it to the city. It is sheltered from public view by 300-foot-high cliffs adjacent to the UC San Diego campus in La Jolla. To get to the beach, one must walk gingerly down a precipitous path, or hike nearly a mile from more accessible beaches to the north and south.

Like other beaches in California, Black's was used by nudists long before the City Council decided to legalize the activity. The decision to give the beach its "swimsuit optional" status came after a court dismissed a lewd conduct charge against a young male Black's Beach user on the grounds that nudity, per se, was not lewd. The decision took

Donald H. Harrison is the politics writer for the San Diego Union.

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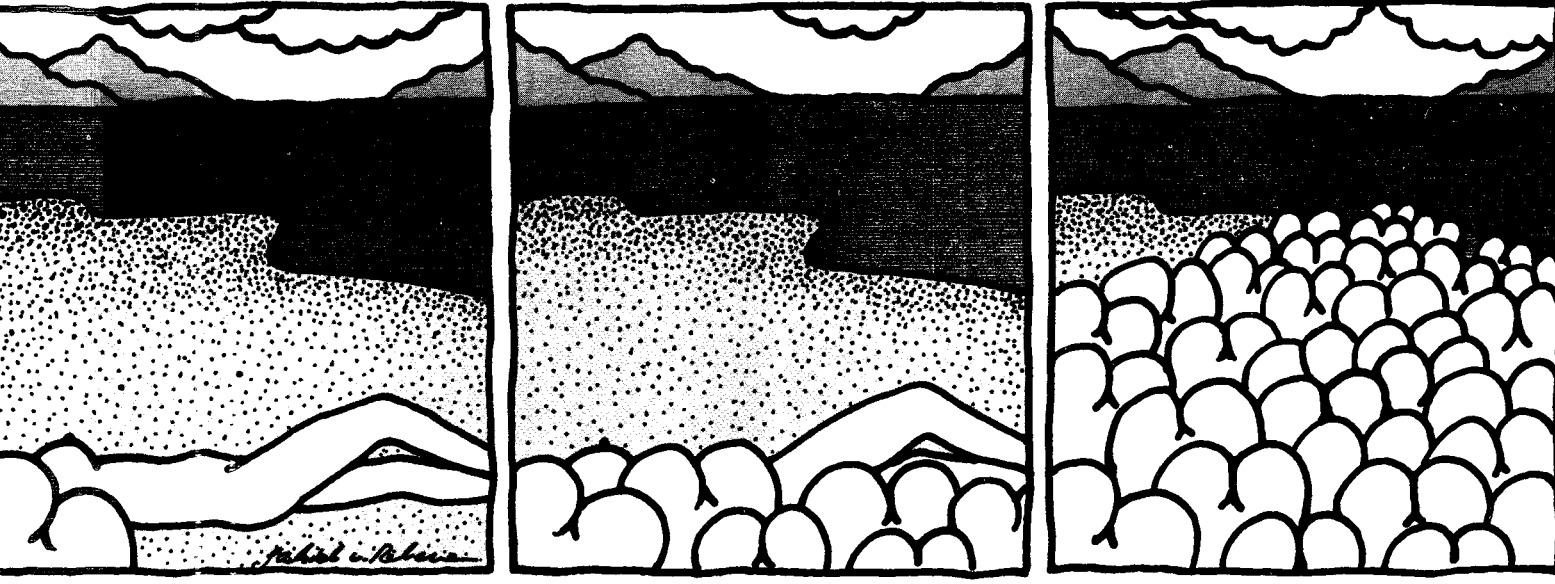

note of Black's secluded nature. Following that ruling, City Attorney John Witt took notice of the fact that the city's general anti-nudity ordinance might be jeopardized if courts held that its intent is to regulate sexual conduct — an area of criminal law preempted by the state. He told the City Council that San Diego might be better able to defend a ban on nudity at beaches if it were to create an area where nudists could go legally. Thus the Black's Beach swimsuit optional zone was born. It continued despite a subsequent ruling by a state appeals court, in a Los Angeles County case, that local governments had the right to prohibit nudity on beaches notwithstanding the state's preemption in sexual behavior laws.

Outdrawing the zoo

As San Diego's reputation as a city with a legal nude beach spread, it became a mecca for tourists who wanted to go in the buff without fear of arrest. Nudist magazines across the country featured it, and tours from distant cities were organized. On one Labor Day weekend, more than 40,000 persons used Black's Beach — easily outdrawing San Diego's main tourist attractions, the zoo and Sea World. Adjacent to the UCSD campus is a wealthy residential community known as La Jolla Farms. Residents of this once-peaceful area soon began to complain vociferously that their neighborhood was under siege. Traffic and parking problems were horrendous; litter became commonplace, and — according to the La Jolla Farms residents — an "undesirable element" plagued them. Stories were legion of nude couples strolling down the fashionable streets, of sex fiends on the prowl, of couples fornicating on the spacious lawns.

Predictably, Black's Beach became the subject of numerous sermons from San Diego pulpits. Pressure built inexorably for a referendum on the beach. Faced with reelection this year, the councilman in whose district the beach is located, Gil Johnson, finally agreed to ask his colleagues on the council to place an advisory question on the ballot. A three-pronged campaign against Black's Beach was developed. A Save The Beaches Committee was formed to debate the tax consequences of having a mecca for nudists. Church groups, particularly those of evangelical Christian persuasion, concentrated on the morality issue. And City Councilman Lee Hubbard peppered the city manager with requests for studies of the crime rate at Black's Beach — studies which boomeranged to the nudists' favor.

The tax issue kept the Nude Beaches Committee pinned down — almost in a Catch-22 situation. Nudists were consigned to Black's Beach in the first place because of its secluded nature. But on the other hand, the beach's seclusion meant that there were inadequate access trails and inadequate parking and sanitation facilities in the area. To develop the beach properly, said the anti-nudists, could cost the city as much as $1 million. While the figure was debated, "Don't Pay for Their Play" billboards went up across the city.

The Nude Beaches Committee countered that La Jolla Farms residents, not the nudists, were the special interest group in the election. Banning the nudes, argued the committee, would restore Black's Beach to a quasi-private beach, almost an exclusive preserve for the homeowners. Councilman Hubbard meanwhile decried the practice of "body-painting" on Black's Beach. Children's bodies were being touched, he complained. While not illegal, the activity was immoral in Hubbard's estimate. It led to the kind of things that he was fond of illustrating in a slide show — couples engaged in heterosexual and homosexual activities, purportedly at Black's Beach. Church officials meanwhile were going on record against nudism, particularly leaders of the Roman Catholic and Episcopal churches and the San Diego Evangelical Association. The Nude Beaches Committee was able to mobilize some liberal pastors in favor of "freedom of choice," but the dominant church theme was anti-nudity.

Hand in hand

Besides Hubbard, officials joining in the anti-nudity campaign were Republican Assemblyman Jim Ellis of San Diego, Councilman Tom Gade and Republican State Senator John Stull of Escondido, who earlier in the year had a bill defeated to ban nudism at state parks and beaches. (At state facilities, the parks and recreation director has discretion currently to decide upon use by nudists.) Democratic Assemblyman Larry Kapiloff of San Diego was the only official to visibly support the nudists' cause. He taped some commercials in their behalf.

San Diego Mayor Pete Wilson, a Republican gubernatorial candidate, adopted a low profile on the issue. He told reporters he "would not be disappointed" if voters prohibited nudity, but said little else.

Going into the election, the nudists easily had raised more money than the anti-nudists. Some of that money was raised selling T-shirts emblazoned with the committee's logo, a nude man and nude woman walking hand in hand. Early polls showed that support for nudism on beaches was highest among young voters and lowest among older voters. Post-election surveys of precincts with high concentrations of young voters (near college campuses) indicated a poor turnout among youth. Older citizens, always considered more reliable voters, apparently were of great importance in tipping the balance.

So the nudists will have to try winning in the courts what they lost in the polling booths. But they are encouraged by what they consider a good showing in the San Diego election. It seems likely that other cities along the California coast will be seeing more of them — literally — in the future.

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NOT A MENTION OF ARTIE SAMISH

By Richard Rodda

The not-always-accurate memoirs of Earl Warren

Earl Warren played it close to the vest. As governor from 1943 to 1953, he measured his words carefully, dictating slowly to newsmen just as he would to his secretary. In those days press conferences came twice a week — Tuesday mornings to favor the afternoon papers and Friday afternoons for the morning press. He did not lose his cool — except on questions about his family, which he considered off limits. He exploded once when an Associated Press reporter pressed for comment on a rumored romance between his daughter, Virginia, and former Governor Folsom of Florida.

In his recently published autobiography (*The Memoirs of Earl Warren*, Doubleday & Co., $12.95), Warren holds to that tradition. He is very circumspect in discussing his political associates, both friend and foe. Richard Nixon haters are disappointed because he only skirts the edges of his deep distrust of the disgraced ex-president. It is obvious there was no ghost writer for the Warren memoirs. A collaborator might have put a little more zing into the copy. It was characteristic of Warren that nothing went out under his name without his personal imprint, dull or not.

As one who was on the Capitol scene during the Warren era and also kept a close watch from afar on his career as United States Chief Justice, I disagree with several of Warren's interpretations of events. Not enough, however, to diminish my respect for him as an honest and courageous public servant and one of the nation's most outstanding members of the Supreme Court.

Warren states that during the McCarthy era the press corps in Sacramento tried to prevent participation in his press conferences of reporters for the *Communist People's World*, published in San Francisco. If my memory serves, it was Sacramento's version of Joe McCarthy, the late Senator Jack Tenney of Los Angeles, and others who brought pressure upon the Legislature and forced the *People's World* representatives to cover proceedings from the galleries instead of the floors, where accredited members of the news media have desks. There may have been some vocal agitation by individual reporters from conservative papers to ban the left-wing publication from Warren press conferences. But the Capitol Correspondents Association made no effort to bar the *People's World*, either from the Legislature or the governor's office.

It seems to me Warren may have had a faulty memory concerning his relations with the legislative leadership. He says he never interfered. That may be true, so far as the elections of the President pro Tempore of the Senate or the Speaker of the Assembly are concerned. A man named Artie Samish, the notorious liquor lobbyist, boasted that he ran the Legislature, and indeed he did have power over the top leadership. But the chairmen of the Assembly Ways and Means Committee, which handled the Warren budgets, were known as spokesmen for Warren and certainly acted as if they were hand-picked. Two of them, Albert C. Wollenberg and Marvin Sherwin, landed judgeships. Sherwin subsequently was forced off the bench in a scandal, but Wollenberg serves with distinction, as a federal judge in San Francisco. Even the chairman of the Senate Finance Committee acted like an apologist for the governor, but not so much so as the Ways and Means chairmen.

An important omission in the Warren book is any reference to Samish, the central figure in one of the few modern-day scandals touching the California Legislature. Samish broke his pick when he boasted in a national magazine article that he was "governor of the Legislature." I was present at a press conference when Warren reluctantly admitted that in matters concerning his clients, Samish had more clout than the governor. Samish subsequently was indicted and served a prison term on charges of income tax evasion. The old Assembly Public Morals Committee (reporters dubbed it the Public Morons Committee) and the Senate Governmental Efficiency Committee were composed of Samish puppets. They handled all the liquor legislation, as well as almost any other legislation Samish wanted referred to them.

It is conceivable that Warren had not come to the Samish period in writing his memoirs, which were unfinished at the time of his death on July 9th, 1974. Another possibility is that Warren might have been so frustrated and embarrassed over the Samish "cancer" in the Capitol, he felt the less said the better.

Warren had a reputation for being above partisan politics, winning elections because of his concern for all segments of society, whether Republican, Democrat, conservative or liberal. Indeed, this carefully orchestrated image paid off. He is the only California governor ever to win both the Republican and Democratic nominations, a feat possible during the era of cross filing. This happened in 1946. The late Bob Kenny, former attorney general, was the Democratic sacrificial lamb who lost his party's nomination to Warren.

As part of his strategy, Warren refused to join other Republicans to form a campaign slate. This frustrated the two lieutenant governors who served with him, Frederick F. Houser and Goodwin J. Knight. He mentioned the coolness that existed between himself and these fellow Republicans. While the reader is led to believe it was all a part of Warren's philosophy of appealing to the electorate as a man, not as a party puppet, there is a strong belief among those who knew Warren that he really was just a loner. Even within his loyal staff in Sacramento, there are a few who felt they never knew the man.

When Warren caught White House fever, the true "political animal" emerged. As convention keynoter and as a candidate for vice president in 1948, Warren put on his partisan gloves and attacked the Democrats about as vigorously as Senator Robert Dole, the GOP hatchet man, did in 1976.

The development of Warren's personal philosophy — from that of a conservative, crime-fighting district attorney of Alameda County and a racket-busting attorney general to a Supreme Court liberal almost as far to the left as Justice

Richard Rodda recently retired as political editor of the McClatchy Newspapers.

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William Douglas — is reflected in the autobiography. Warren, of course, does not concede he was a conservative who changed to a liberal, but he documents the case for others who view him that way.

For instance, a footnote recalls that Warren, as a member of the State Judicial Qualifications Commission, blocked the appointment by his predecessor, Governor Culbert L. Olson, of Max Radin, a liberal University of California professor, to the State Supreme Court. It is hard to believe the Warren of the 1960s would have done this. Again, as attorney general, Warren held in an opinion that school children could be expelled if they refused to salute the American flag. This is the same Warren who, 20 years later, headed the court that invalidated compulsory prayers in the schools.

Perhaps the most significant change of attitude revolved around the one-man, one-vote decision of the Warren Court — a decision written by Warren himself. As governor, Warren signed a 1951 reapportionment bill which continued to force Los Angeles County, with about 40 percent of the state's population, to depend on one person for its representation in the 40-member State Senate. In 1948 he even campaigned against an initiative to provide more senators for Southern California. Warren justifies this in his autobiography by saying most of the large counties, except Los Angeles, opposed the measure. "I joined them in opposing it," he says. "It was frankly a matter of political expediency."

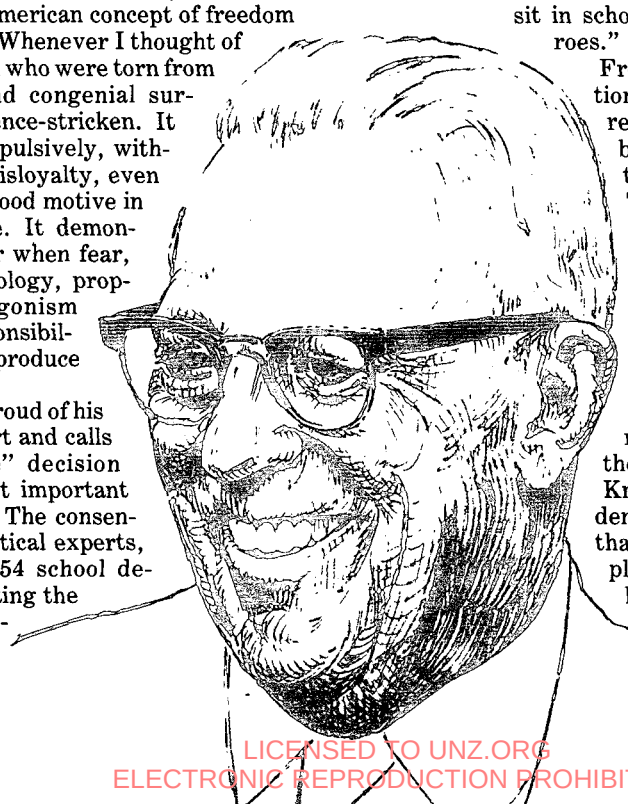
Warren relates that, as attorney general and a Republican, he did not get along with Democratic Governor Olson. In 1942 Olson ran for reelection but Warren defeated him handily during a wartime resurgence of the GOP.

The hard feelings of the campaign did not last. Warren graciously welcomed Olson back to the Capitol and presided at an unveiling ceremony for the Olson portrait, which hangs on the corridor wall along with those of all former governors.

Japanese-Americans of California, who have longed for a Warren apology over his role in their confinement in relocation camps during World War II, will find it in the memoirs.

"I have deeply regretted the removal order and my own testimony advocating it," writes Warren, "because it was not in keeping with our American concept of freedom and the rights of citizens. Whenever I thought of the innocent little children who were torn from home, school friends and congenial surroundings, I was conscience-stricken. It was wrong to react so impulsively, without positive evidence of disloyalty, even though we felt we had a good motive in the security of our state. It demonstrates the cruelty of war when fear, get-tough military psychology, propaganda and racial antagonism combine with one's responsibility for public security to produce such acts."

Warren is deservedly proud of his role on the Supreme Court and calls the "one-man, one-vote" decision *(Baker v. Carr)* the most important one of the Warren court. The consensus of most legal and political experts, however, is that the 1954 school desegregation case invalidating the "separate-but-equal" doctrine overshadows all others.



Researchers have yet to find any written evidence of Warren's feelings toward Richard Nixon. The editor's prologue to the book notes: "It should be mentioned that Warren does not indulge here in the sort of name-calling that has been attributed to him by some reporters since his death, in particular with regard to his opinion of former President Nixon. Such posthumous attributions are entirely inconsistent with Earl Warren's non-accusatory character as we knew him during many months of close association while he was working on this book."

The Warren files from his years as governor, deposited in the State Archives in 1953 and under seal until his death 21 years later, contain mountains of political correspondence but nary a scrap of paper dealing with the alleged double cross by Nixon at the 1952 Republican national convention. The story goes that Nixon, a California delegate pledged to Warren for president, worked secretly for Dwight D. Eisenhower's nomination and was rewarded as Ike's choice for his running mate. Warren merely alludes to the situation in his book. After his arrival in Chicago on a special train carrying his delegation, the governor made a courtesy call on Eisenhower.

"Imagine my surprise when the doorkeeper who admitted me to the general's suite was Murray Chotiner, one of the managers on my train," he writes. The late Murray Chotiner, a longtime close associate of Nixon, was known as a hatchet man in political circles.

Actually more hostility toward Eisenhower than Nixon emerges in the memoirs. Warren relates that on an Air Force One flight bearing VIPs to the funeral of Winston Churchill in London, he had an unpleasant conversation with Eisenhower. The late President had protested personally to Warren about a court decision favorable to the rights of Communists.

"What would you do with Communists in America?" Warren says he asked Ike. "I would kill the SOBs," replied Eisenhower.

During a White House function, says Warren, Eisenhower took him by the arm to lecture him softly about Southerners. This is how Eisenhower put it, according to Warren: "These are not bad people. All they are concerned about is to see that their sweet little girls are not required to sit in school alongside some big overgrown Negroes."

From this time on, recalls Warren, his relations with Eisenhower were very cool. Warren also describes the "arrogance" of the backers of U.S. Senator Robert Taft at the 1952 convention. They treated Thomas Dewey, the 1948 GOP nominee on a Dewey-Warren ticket, as "though he were a pickpocket," Warren says.

It is interesting, too, that Warren surmises that the late William F. Knowland, a U.S. senator in 1952, might have been Taft's running mate had Warren swung his big delegation to Taft at the convention. That being the case, Warren continued, Taft might have made it to the White House instead of Eisenhower. Knowland would then have become president, the logic goes, because Taft died less than four years later. "I mention this," explains Warren, "because thereafter my relations with Knowland, political and otherwise, cooled markedly — not to the breaking point but noticeably."

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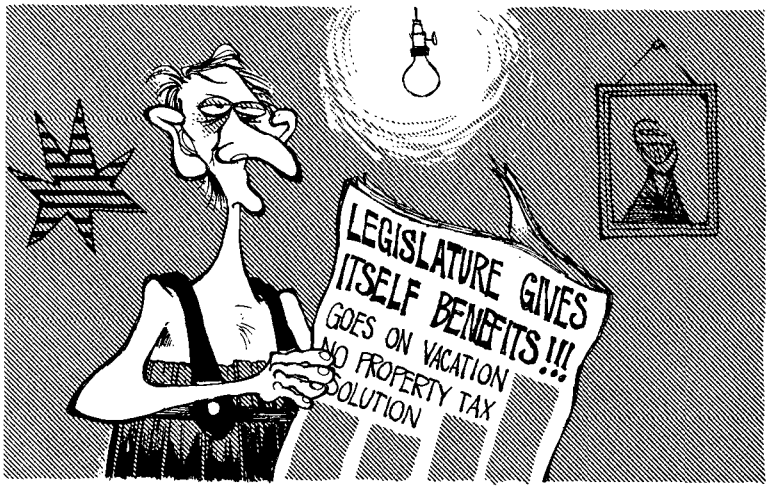
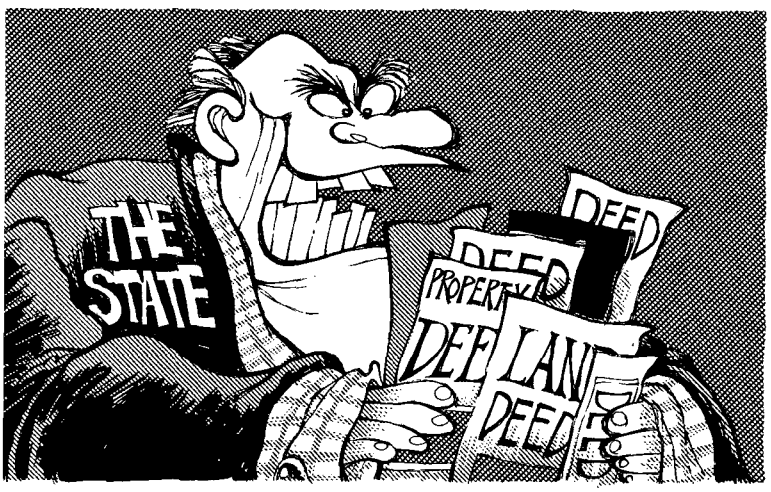
TAKE IT WITH A

GRAIN OF SALT, WHEN...

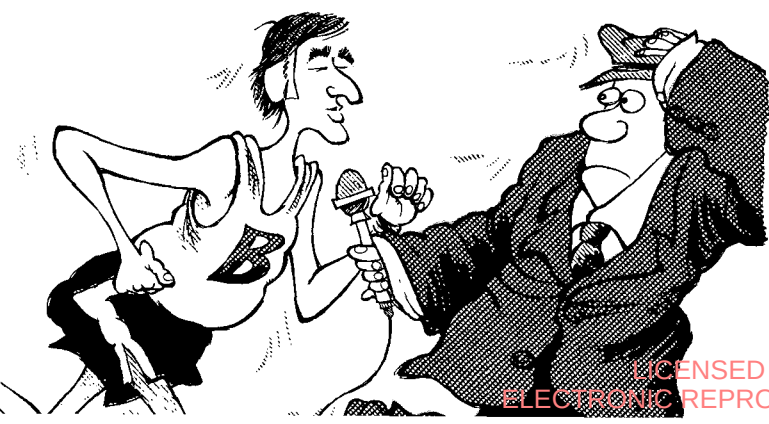
. . . the Legislature says its highest priority is property tax relief.



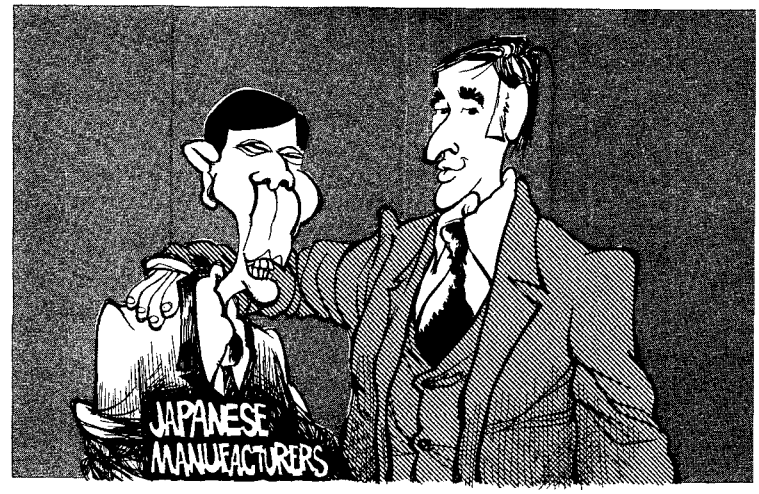
. . . the State helps out the elderly by deferring their property tax until their death and then taking over their estate.



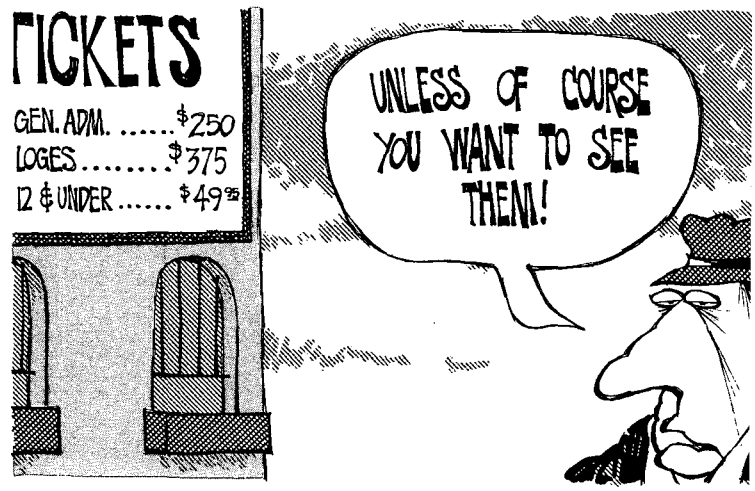
. . . the Governor says he hasn't decided if he'll run for reelection.



. . . the Governor sponsors Save the Whale Day.



. . . they say the Los Angeles Olympics won't cost taxpayers a cent.



. . . the magazine you work for assures you the check is in the mail.

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HE WHO AUDITS CAMPAIGNS RISKS HIS JOB . . .

Tax collector Huff— -- politicians' enemy No. 1

By CAROLYN STREET

If you took a poll of legislators these days, the executive officer of the state Franchise Tax Board, Martin Huff, would win the title of "politicians' enemy number one" hands down. No one has ever questioned Huff's honesty, integrity, efficiency or administrative ability. Yet, the Legislature came extremely close to putting him out of a job at the end of this year's session, and he is under fire from Governor Brown and State Controller Ken Cory, among others.

Ever since Cory assumed office as state controller, he has been maneuvering to remove Huff, and the reasons are not entirely clear. The Franchise Tax Board, which administers the personal and corporate income taxes, consists of the controller, the state director of finance and the head of the state's other major tax-collection agency, the Board of Equalization. Technically, the three-member board establishes policies for Huff to follow, but in reality Huff has made almost all the decisions on how tax returns should be handled since he took office 14 years ago.

Huff, then the elected auditor-controller for the city of Oakland, was appointed to his present job in 1963 by former Governor Edmund G. (Pat) Brown. Huff was virtually given the job for life because the law states that he can be removed only by a two-thirds vote of the state Senate. The purpose of that law is simple — to keep the collection of the income taxes out of politics.

The causes of conflict

For many years, the members of the Franchise Tax Board met annually for a quick, formal meeting as required by law and left things in Huff's hands the rest of the time. But there are some major new factors that have ended the era of noninvolvement, and one of them is the presence on the board of two men who don't like to delegate power: Cory and William M. Bennett, chairman of the Board of Equalization. Other reasons:

○ The income tax. For many years, the personal income tax was a relatively small element of the state revenue system. But inflation and the progressive nature of the levy have boosted it to the point where one of these days it will surpass the sales tax as the state's top revenue producer. In the current fiscal year, it is estimated that the income tax take will be $4.3 billion.

○ Huff's bureaucratic personality and go-by-the-book attitude. Over the years, Huff has not made it a point to curry favor among legislators. He has remained aloof from politics, although he had been active in the Democratic Party prior to his appointment. As a tax collector, he doesn't bend the rules. "I've been accused of being rigid," he says. "I feel I'm flexible within the law, but I don't bend the law. People don't like that. They want you to be flexible, and that means look-the-other-way if the law infringes on them . . . When it comes to business, I don't have any friends." Huff has also been scrupulous about keeping tax records confidential. (Despite this, there was a leak from his agency several years ago that resulted in newspaper stories revealing that Ronald Reagan had not paid any income tax in one year.)

○ Political reform. Under the Political Reform Act of 1974, Huff has the responsibility for auditing campaign contribution reports. He has taken the job seriously and has attempted to audit every filing. This has angered legislators, who feel he is overzealous and anxious to embarrass them. This factor, perhaps more than any other, is responsible for the legislative campaign to remove him. And since Cory has many friends in the Legislature, it is probably also grating on him.

○ Expense accounts. Legislators receive $35 a day in expense money during sessions. Huff has called for audits to

Carolyn Street wrote about the unitary tax in the September issue of the Journal.

This cartoon is credited with turning the Brown Administration around on the advisability of removing Martin Huff from office.

Dennis Renault — Sacramento Bee

'Really, Mr. Huff, we're not going to chop off your head; maybe your arm or a hand; perhaps a leg or two . . .'

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Dennis Renault — Sacramento Bee

'What I resent is being treated like any other California taxpayer!'
HEARING
BILL TO CURB AUTHORITY OF STATE TAX OFFICER MARTIN HUFF
ASSEMBLY
STATE SENATE
"IT'S THE LAW" SAYS TAX MAN
LEGISLATORS MUST PAY RETROACTIVE TAX ON PER DIEM INCOME
LAWMAKERS WANT A RETROACTIVE EXEMPTION
Renault

determine how much of this per-diem income should be taxed by the state. The Legislature passed a bill this year making clear that these funds cannot be taxed.

• **The unitary tax.** Huff is a prime advocate of the so-called unitary system of taxation (See "Brown's quick switch" in last month's *Journal*) and was responsible for the Governor opposing a United States-Great Britain treaty eliminating that form of corporate taxation. That was before Brown went to Japan seeking industrial development. Upon his return, Brown did a turnabout on the unitary tax and accused Huff of supplying him with "flaky data." Late last month, Brown retracted his prior stand before Congress and said the cost of the treaty to California would be far less than the $125 million estimated by Huff.

• **The Nixon case.** Bennett became upset with Huff because the executive officer refused to engage in a wide-open investigation of possible state income tax violations by Richard Nixon during the Watergate scandal.

Strong enemies, few friends

In short, by merely doing his job and scrupulously trying to maximize state tax collections, Huff has made powerful enemies and few friends. About his only major public defender has been state Senator Nicholas C. Petris of Oakland, a tax specialist and an old friend from Oakland. Petris claims he has never heard anyone charge Huff with anything significant. He says there are forces in the Legislature who want to drop Huff "because of his stand on the per diem problem." Cory, Petris adds, has been "plotting and planning to get rid of Martin Huff for some time."

Petris, among others, is convinced that Cory obtained a commitment at one point from the Governor to go along with a plan that would have the effect of firing Huff. Under this scheme, the Franchise Tax Board would send Huff on a slow boat to China or almost anywhere else he wanted to go outside of California to study tax collection. Meanwhile his job would be filled by a temporary executive officer beholden to Bennett, Cory and the Governor. (Brown has a vote on the board through the Director of Finance, who serves at the will of the Governor.) Bennett claims this plan fell apart when the *Sacramento Bee* published a cartoon by Dennis Renault showing the politicians (Brown and Cory) clobbering the honest public servant (Huff) because he wasn't doing their bidding. Brown may have decided at that point that dumping Huff wouldn't be such a wise move after all.

Petris has been telling anyone who would listen that it would be stupid politics to fire Huff because the media would make Huff the hero and make legislators look like sleazy, money-grubbing politicians. Bennett said the firing of Huff would be comparable to Nixon's firing of Archibald Cox as Watergate special prosecutor, but Bennett is given to dramatization.

One reason why the Huff puzzle is difficult to unravel is that those who want him fired often agree with him on specific issues. Cory, for example, has been one of Huff's allies on the unitary-tax question. Bennett wanted the board to take more power and blasted Huff on the Nixon issue but he has defended him to the hilt when others have tried to fire him. The Governor, who turned sour on Huff's unitary-tax stand, is one of the few politicians who supports his audits of campaign reports.

It is probably the campaign-contribution audits that have produced the most difficulty for Huff. The Legislature went so far as to put in this year's state budget a provision limiting the amount of audits the Franchise Tax Board could undertake. Brown vetoed that language from the budget, and Legislative Counsel Bion Gregory offered an opinion that Brown's act was unconstitutional because the Governor is restricted to reducing or eliminating appropriations. In a bizarre legal step, Cory on September 27th voted as a member of the Franchise Tax Board to institute action against himself as controller, so that the conflict between Brown and the Legislature on this point could be adjudicated.

Cory, as controller, had been asked by the Legislature to withhold funds for the full audits. During the dispute, Senate Democratic leader David Roberti charged that Huff's political-reform division had become "a political police force, for which Huff should be censured." Huff subsequently raised the issue of expense-account taxation. That, Huff said, "was like pouring gasoline on a fire."

Where the power lies

Cory has made it clear that he wants Huff's power taken back by the board. "At the heart of what's going on here," Cory told Huff, "is that it's your function to serve the board, not ours to serve you." Huff responds that he realizes his power is delegated. "We're trying to do our job . . . What authority they delegate, I have. And that's what I have problems with. A group of people cannot manage anything, they can only set broad policy. There's no battle here; it's a one-way attack. All we do is serve the board, and they send out confused, conflicting messages."

One of the problems is that the board has delegated so much authority for so long that it is a practical impossibility to take it back. Furthermore, the law requires that all meetings with Huff on personnel matters must be held in public. And that has turned out to be an important weapon for Huff.

When Cory goes on the attack, Huff asks for specific complaints. Cory has thus far complained primarily of relatively minor matters. At one meeting, Cory accused Huff of chilling a study of Franchise Tax Board operations by the auditor general, a study requested by Assemblyman Willie Brown, head of the Lower House revenue and taxation

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committee. The controller said Huff's staff was making it difficult for the auditor general's staff to get information, but by that time Huff said he had solved all the problems. Huff said later that "the charges seemed like small things blown way out of proportion, as if he were looking for something . . . He should have complained in a timely manner, instead of storing them up like a little kid." He added that it was difficult to get feedback "in an atmosphere of pure hostility."

The man who often gets put in the middle is the deputy director of finance, Sid McCausland, who usually represents Finance Director Roy Bell (and thus the Governor) on the panel. McCausland claims Huff rarely asks the board for "advice and consent" on agency activities. Huff won't give board members information on tax returns without written justification, and overall security at the agency is very tight, according to McCausland. Assemblyman Brown said he requested the audit because he couldn't get information he wanted on corporate taxation. Governor Brown accused Huff of having unitary-tax information locked up in a "black box."

Last February, Bennett joined with Cory to chip away at Huff's authority — over the opposition of Bell and McCausland. The board reclaimed the right to appoint top staff members and to examine tax returns, but McCausland claims this has united staff members behind Huff. "They know their boss is a tyrant," says McCausland, "but they also know he's consistent and won't pull the rug out from under any one of them."

The Brown Administration went over to the other side when Brown started a heavy love affair with the business community. Huff has been at war with corporate America for many years, fighting for every tax dollar he can possibly corral. He established field offices in Chicago and New York to go after lost taxes from the *Fortune* magazine top-500 businesses. The auditor general has estimated that the state has collected $17.50 in taxes for every dollar spent on these field offices. (Huff says the figure is conservative.) Huff is recognized as the national leader in the advocacy of the unitary tax, which the Governor now opposes and multinational corporations have long detested.

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1. Sales through dealers and carriers, street vendors and counter sales	170	115
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I certify that the statements made by me above are correct and complete.
THOMAS R. HOEBER, *Publisher*

Cory's ill-fated attack

Brown's disaffection with Huff on the unitary tax gave Huff's other enemies the courage to act. Cory tried to engineer the "get-Huff" move on the board and was surprised when it failed. He appealed to Huff's harshest critic up to that time, Bennett, and came up empty-handed. Bennett, as a consumer advocate, has been at war with the business community even longer than Huff. "Brown is going to give your head to Cory on a platter," Bennett recalls he told Huff, "but I'm going to try to save you." Huff says of Bennett: "I understand where Bennett's coming from. He likes publicity. That's how he functions . . . But when it comes down to the nitty-gritty, he's in the right corner."

Failing with Bennett, Cory expected a vote from Brown's finance director. According to McCausland, Cory thought he had the Administration's backing for a plan to send Huff on a long-term trip. Cory later gave McCausland "strong vibes that he thought he had a commitment from the Administration, a commitment he thought had been broken." Was there a commitment, and if so was it broken because of the Renault cartoon? In any event, Bennett and McCausland left Cory out on a limb. And Huff's job was secure — at least for another few days.

Legislators then became involved in a variety of moves designed to curb Huff's authority or remove him. Willie Brown was a key figure. He claims Huff plays too large an "adversarial role" in government, and he feels Huff is uncooperative in providing the Legislature with unbiased figures on bills when Huff's position differs from Brown's. The anti-Huff proposal at one point was inserted into a measure providing an exemption from unitary taxation for the Arabian-American Oil Company. Primarily through Petris' efforts, Huff was saved again.

During the debate, it became clear that legislators were primarily upset about the detailed auditing done by Huff's crew on campaign reports. Ironically, Huff had tried to resist the placement of the auditing function in his agency, because he knew it would cause him a great deal of trouble. But it was given to the Franchise Tax Board anyhow. Petris feels that anyone given that function would have been a loser, "because he has to deal with 120 prima donnas, not counting all the other prima donnas out there who want to replace us."

The chance of survival

Can Huff survive, and, if so, for how long? Huff says he would have left a year ago if he had seen the series of political tornadoes coming. Huff claims he doesn't worry about what's happening. "I can look at it as a detached observer and wonder at all this foolishness. I do the best I can. I sleep well at night."

The fight over Martin Huff is far from over. The Legislature obtained a new weapon on the last day of the session when Assemblyman Dan Boatwright received an opinion from the legislative counsel that the two-thirds Senate vote required to remove Huff may not be constitutional. Stripped of that special protection, how long can a tax collector hold out against the might of the state's political establishment?

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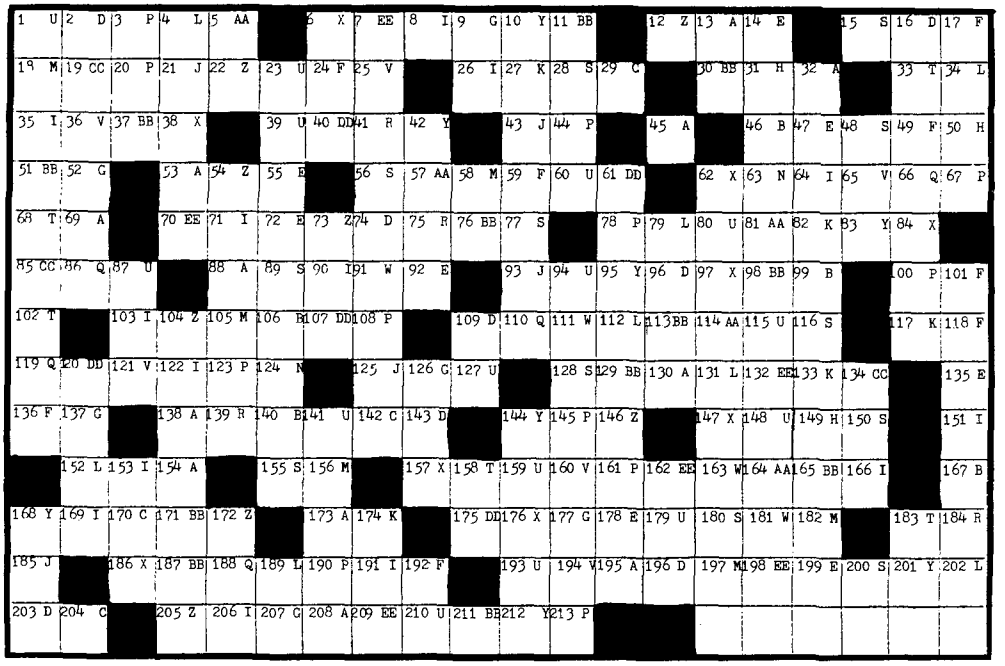
The Political Double-Cross

by Alisa Belinkoff



by Alisa Belinkoff
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Instructions: Although this looks like a crossword puzzle, the words read only across, not up and down. The completed diagram spells out a quote about politics in California. Fill in the answers to the clues and transfer the letters to the corresponding spaces in the diagram. You may also work backwards, guessing at words in the diagram and transferring the letters to the clue spaces. The first letters of the clue answers, taken in order, spell out the title and author of the book from which the quote is taken. Most of the clues refer to California political scene.

CLUES

A. Brown's posture on *relations with Japan:* Phase I.
138 53 195 154 173 13 32
88 208 45 69 130

B. Southern California Olympic Committee chair.
140 167 46 106 99

C. With "J" and "N": last words of Brown inaugural.
204 142 29 170

D. Lance's checking system.
Z ___ 196 74 2

E. What Rita Clancy attends; what Alan Bakke wished for.
96 203 143 16 109
199 14 55

F. Smog agency; outspoken chief.
178 135 47 92 72
136 192 49

G. He filled "L", relatively speaking.
17 59 118 101 24
177 52 207 126 9 137

H. With "I", *recent* L.A. County health board scandal.
31 149 50

I. See "H", above.
151 35 90 191 166
206 8 169 103 122
26 71 153 64

J. See "C", above.
93 21 185 125 43

K. Brown's posture on relations with Japan: Phase II.
27 174 133 117 82

L. Legislative analyst's job.
___ ___ ___ ___ 'S
112 34 152 189
131 4 79 202

M. After the primary, after the rains.
197 18 182 156 105 58

N. See "C", above.
63 124

P. Author of *Small is Beautiful.*
108 44 67 123 190 3
213 100 78 145 161 20

Q. Potential Long Beach *pollution source.*
119 66 86 110 188

R. With "T"; electric rates for largest users will be based on ___ ___ ___.
139 75 41 184

S. Junketing Board; accuser.
116 28 128 89 48 77
15 200 180 155 150 56

T. See "R", above.
158 33 102 68 183

U. Trash policy: solid ___ ___.
1 148 60 179 23
210 94 39 115 193 127
159 87 80 141

V. Timely.
160 121 194 36 65 25

W. Focus of California suit against General Motors.
181 163 91 111

X. Unexpected Karabian stopover.
38 186 84 ___ I N
6 176 157 147 97

Y. Campaign contributors: special ___ groups.
83 201 144 42 95
168 212 10

Z. Result of rent control?
12 146 54 205
22 104 172 73

AA. What "i.e." stands for.
164 5 57 114 81

BB. Mike Curb group.
76 113 165 51 129 11
98 37 30 211 171 187

CC. Reinecke's downfall.
19 134 85

DD. Counter to a liability.
40 107 175 61 120

EE. Bug; bother; harass (as by a constituent).
198 209 7 70 162 132

SOLUTION: A. **S**ave the whale; B. **A**rgue; C. Let's; D. (Z)ero based; E. **M**ed class; F. **ARB** Quinn; G. **N**ephew; H. **HSA**; I. **I**rregularities; J. **Get** to; K. **H**onda; L. **P**ost('s) slot; M. **R**unoff; N. **I**t; P. **E**.F. Schumacher; Q. **SOHIO**; R. **T**ime; S. **L**.A. port Reiner; T. **Of** day; U. **W**aste management; V. **P**rompt; W. **O**lds; X. Land (in) Dacca; Y. **I**nterest; Z. **T**enement; AA. **Id** est; BB. **C**ongregation; CC. **ITT**; DD. **A**sset; EE. **Needle**.

Governor Jerry Brown's 1975 veto message for SB 209 (Grunsky), listed in Ed Salzman, *Jerry Brown: High Priest and Low Politician*, p. 73: Would delete the requirement that the formal name of a garbage and refuse disposal district contain the words "garbage and refuse disposal district." The present law states the case. I see no compelling reason to sanction yet another governmental euphemism.

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Reduction in production; the Governor's veto bite fails to match his bark

In disposing of the 1,360 bills placed on his desk by the Legislature this year, Governor Brown sounded very much like a California governor of the early 1920's, ultra-conservative Republican Friend W. Richardson. In announcing which measures he had vetoed, Brown attacked liberal government spending, the creation of bureaucracies and the erosion of local control. But the actions didn't match the words.

Richardson, in his prime, vetoed more bills than he signed. In one year, he killed more than 500 bills. Even Ronald Reagan never came close to that record. Brown himself was kind to legislators this year. He vetoed only 124 measures, nine percent of those sent to his corner office by legislators. That compares with 11 percent last year (184 vetoes) and 10 percent the previous year (148 vetoes).

One reason for the reduction in the number of Brown vetoes was a reduced workload from the Legislature. In his first two years, Brown was sent bills at a blistering pace as the Democratic Legislature cleared the decks of bills left from the Reagan years. This year, production was down in magnitude as well as quantity. There were few major bills vetoed by the Governor, partially because there were few major measures sitting on his desk. Of the 1,236 bills enacted into law this year, 1,179 were signed by Brown and 57 became law without his signature. Of the 124 vetoed, by far the most important was the bill (SB 155-Deukmejian) restoring the death penalty in California. And that veto was eventually overridden.

Here is a sample of bills vetoed by Governor Brown this year and the reasons he gave for refusing to sign them into law:

Insurance AB 636 *(Maddy).* Would have authorized the issuance of revenue bonds for the payment of insurance bills.

. . . Those cities in the east which have yielded to the temptation of paying current expenses by floating bonds have reaped a whirlwind of fiscal chaos. That is not what I want for California.

Turtles. AB 49 *(Nejedly).* Would have extended the time under which green sea turtles and their products could be sold in California.

Green sea turtles make soup, steak, pretty shells and cosmetic oil. Once there were tens of millions; now there are only thousands nearing their mysterious voyage through the seas from nesting beaches to distant feeding grounds. Some say farming sea turtles in captivity will bring them back. Others see such commercial ventures as just expanding the appetite for this threatened creature. I incline to the latter and believe what turtles need is less people taking their eggs and depleting their species.

Death penalty. SB 155. *(Deukmejian).* Would have restored the death penalty in California.

Statistics can be marshalled and arguments propounded. But at some point, each of us must decide for himself what sort of future we would want. For me, this would be a society where we do not use death as a punishment.

Grade separation. AB 1691 *(Fazio).* Would have added $5 million to the $15 million the state spends each year for grade-separation projects.

Evidence indicates that highway safety-projects are more beneficial from a safety viewpoint than grade-separation projects. Moreover, this bill is dependent on contingencies that are rather remote.

Doctors. AB 1971 *(Deddeh).* Would have made schools responsible for misdeeds of doctors providing care to students injured in athletic contests.

This bill . . . would shift the liability for malpractice from the attending physician to the school district. In view of the financial burdens currently endured by our schools and property taxpayers, I do not believe such a shift is justified. Moreover, out of the hundreds of school districts in California, only one has cancelled its football schedule for lack of this bill. I am open to other suggestions.

Antelope. SB 414 *(Johnson).* Would have allowed the killing of antelopes damaging property.

. . . The number of antelope in California has increased from . . . 2,000 in 1960 to approximately 4,900 today. A bill to allow depredation permits . . . should be supported by clear evidence that there is an identifiable need for such a measure. This kind of evidence has not been presented.

Court reporters. SB 524 *(Beverly).* Would have increased the fee for court-reporter transcriptions.

This bill will increase the already exces-

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sive costs of litigation. There has not been an adequate showing that the increased fees are necessary at this time. Besides, I would like to see some reform first.

Musuem. AB 745 *(Cullen).* Would have established the California Museum of American History under the Secretary of State.

This bill calls for the creation of a new government entity of uncertain magnitude. Without greater specificity, I do not believe such legislation can be justified.

Rap sheets. SB 898 *(Wilson).* Would have allowed defense attorneys in criminal cases to obtain "rap sheets" on witnesses.

This bill would allow defense attorneys in all criminal cases unlimited access to criminal records . . . This bill fails to adequately safeguard the privacy of confidential criminal records.

Judges. AB 1157 *(Torres).* Would have increased the number of Los Angeles superior judges from 171 to 205.

The demands on the State Treasury are escalating while the pace of judicial reform is slow . . .

Pardons. AB 1394 *(Alatorre).* Would have created a board to review applications for reprieves, pardons and commutations of sentences.

. . . The present system has worked reasonably well for a long time and I see no need to change it.

Bonaroo. AB 1533 *(Alatorre).* Would have established J. J. Bonaroo College for state-prison inmates; would have appropriated $120,000.

I question the need for a separate college within the state prison system. The state is already spending $10.6 million for prisoner educational programs.

Recreation. AB 1411 *(Rosenthal).* Would have appropriated $3 million for recreational grants to local government.

I am not persuaded that the state, as opposed to local government, should assume the leadership role with respect to the leisure time activities funded by this bill.

Nursing homes. AB 1427 *(Papan).* Would have allocated $32 million over two years for pay increases to nursing-home employees.

In light of the uncertainties in the Medi-Cal program and the need to carefully preserve tax dollars for property tax relief, I am returning AB 1427 without my signature.

Service centers. AB 1672 *(Vasconcellos).* Would have appropriated $183,000 for three pilot postsecondary educational service centers.

. . . The political will needs stimulation but not through state paid local counseling centers. What we need is more commitment by already existing institutions and more participation from indigenous leadership.

Tenure. AB 798 *(Brown).* Would have granted time toward tenure for certain temporary teachers.

Given the existence of collective bargaining and its potential for teacher employment security, I do not understand the justification for extending tenure as provided for in this bill. On the contrary, serious thought should be given to the place of tenure in a world of collective bargaining agreements.

Sentences. AB 1297 *(Alatorre)* **and SB 776** *(Sieroty).* Would have changed method of calculating good-behavior time in county jails, thus reducing time served.

By making good time and work time credits almost a matter of right, this bill would impose new restraints on local sheriffs and limit their authority. No compelling case has been made to justify this change.

Benefits. AB 324 *(Mori).* Would have given additional retirement benefits to classified school employees.

This bill would cost the state $20 million a year. It would be more appropriate to enact a bill that would allow local school districts to fund the costs covered by this measure.

Prisoners. AB 1052 *(Alatorre).* Would have liberalized county-jail work furlough programs.

This bill would weaken the authority of local sheriffs over local work furlough programs. I do not believe the public interest would be served by such a change.

Lawyers. AB 209 *(Knox)* Would have created a Client Protection Board composed of nine members appointed by the State Bar governors.

AB 209 contemplates compulsory insurance for one professional group. Compulsory insurance inevitably leads to a state fund, a prospect we should think about long and hard.

Social Security. AB 384 *(Antonovich).* Would have allowed Los Angeles County employees to withdraw from the Social Security system.

Social Security has its problems but they are small compared to those created by a mobile and restless society which fails to develop a portable pension system. This bill moves in the wrong direction. Let's give the national government a chance to fix up Social Security before we encourage public employees to bail out.

Lifelines. SB 263 *(Stull).* Would have added electrical uses to the lifeline-rate system.

While the addition of air conditioning to the lifeline law may be desirable, I believe it is more appropriately considered by the Public Utilities Commission through its normal administrative process.

Spectacles. AB 221 *(Lancaster).* Would have allowed eye doctors and opticians to advertise the cost of goods and services.

. . . I believe it would be premature to codify rules for such advertising at a time when the law in this area is in a state of flux.

Fees. AB 777 *(Fazio)* Would have increased the maximum attorney's fee for a civil suit against the state from $1,500 to $5,000.

I believe this bill would tend to accelerate the alarming rush to the courts for almost every grievance.

Early retirement. SB 984 *(Wilson).* Would have provided additional retirement benefits to safety employees.

While I sympathize with the frustration, exasperation and danger so many police and firefighters daily experience, I am not prepared to authorize retirement as early as age 41.

What follows is a selection of bills either signed into law by Governor Brown or allowed to become law without his signature. Most of the new laws will become effective on January 1st, 1978. The exceptions are urgency measures, appropriation bills and legislation with specific effective dates.

BUSINESS

Redlining. SB 7 *(Holden).* Prohibits redlining (lending discrimination) by institutions in the mortgage business. **Pizza and Pepsi. AB 9** *(Cullen).* Allows Pepsi Cola to merge with Pizza Huts by waiving a state liquor law, providing that many new restaurants are located in high-unemployment areas. **Economic development. SB 28** *(Holmdahl).* Creates the Department of Economic and Business Development. **Irvine project. SB 344** *(Dennis Carpenter).* Clears the way for construction of $750 million industrial complex in Orange County. **International trade. SB 666** *(Garamendi).* Establishes Office of International Trade to help sell California agricultural products overseas. **Small business. AB 881** *(Suitt).* Provides an insurance system for bank

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loans to small business firms, appropriates $1.1 million (reduced from $3 million by Governor Brown).

CRIMINAL JUSTICE

Juveniles AB 84 *(Dixon)*. Appropriates $18 million to local government for facilities for non-criminal juveniles taken into custody. **Domestic violence. SB 91 and 92** *(Presley)*, **SB 691** *(Marks)*. Establishes crisis centers for victims of domestic violence and expands the law on domestic violence to common-law marriages. **Blind jurors. SB 152** *(Garcia)*. Prohibits discrimination against blind persons in jury selection. **Sentences. SB 370** *(Deukmejian)*. Requires prison sentences for those who commit violent crimes against the aged, blind or disabled. **Sentencing act. AB 476** *(Boatwright)*. Tightens some provisions of the determinate sentencing act of 1976. **Continuances. AB 513** *(Cordova)*. Prohibits continuances in criminal cases without good cause. **Parole. SB 518** *(Holmdahl)* Requires prison sentences for ex-convicts who commit violent crimes while on parole.

Prosecutions. SB 683 *(Deukmejian)*. Provides $1.5 million in state aid to local career criminal units in district attorneys' offices. **Liquor candy. AB 711** *(Egeland)*. Makes it unlawful to sell sweets containing alcohol to a minor. **Minors. SB 817** *(Presley)*. Makes it a felony to use children under 16 in commercial pornographic activities. **Capital crimes. AB 938** *(Goggin)*. Appropriates $1 million for payments of costs for indigent defenders in capital cases. **Compensation. AB 1206** *(Chacon)* **and SB 725** *(Smith)*. Requires that courts assess monetary penalties on criminals to help reimburse victims of crimes. **Pornography. AB 1580** *(Ellis)*. Makes it a felony to possess obscene matter involving sex acts by minors.

EDUCATION

Schools. AB 65 *(Greene)*. Drastically revises state system of public-school financing in response to the *Serrano* decision at an estimated cost of about $4.3 billion over the next five years. **School bonds. AB 72** *(Greene)*. Places $350 million school building bond proposal on the 1978 ballot. **Student governor. AB 591** *(Vasconcellos)*. Places a student as a voting member on the community college board of governors. **Library services. SB 792** *(Dunlap)*. Appropriates $5.3 million for expansion of state library services. **Developmentally disabled. AB 965** *(Lanterman)*. Appropriates $15 million for meeting deficiencies in funds for the developmentally disabled and calls for study on feasibility of establishing a rate setting commission (allocation reduced by $10 million by Brown). **Handicapped. AB 1250** *(Lanterman)*. Authorizes expenditure of $528 million over five years to guarantee proper education for all handicapped children.

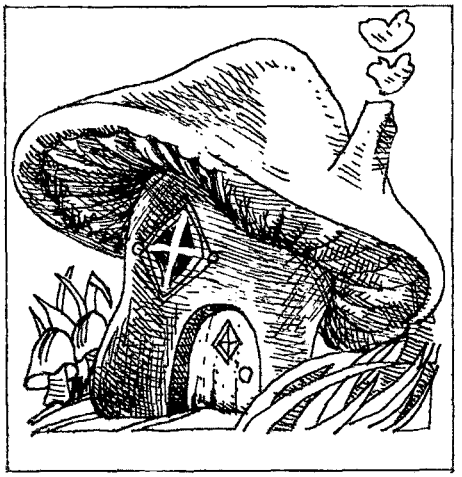
EMPLOYMENT

Affirmative action. SB 179 *(Greene)*. Requires affirmative-action programs in every education agency. **Unemployment. SB 224** *(Behr)*. Authorizes 26 weeks of unemployment benefits to parolees who have worked in prison industries. **Forced retirement. AB 568** and **586** *(Alatorre)*. Bans forced retirement of private and public employees strictly because of age. **Legislators' retirement. SB 613** *(Russell)*. Repeals law that requires the Legislators' Retirement Fund to be actuarially sound by the year 2002. **Collective bargaining. SB 839** *(Dills)*. Establishes collective-bargaining system for state workers under supervision of the Public Employement Regulations Board, now the Educational Employment Relations Board. **Unemployment benefits. AB 1379** *(Fazio)*. Increases weekly disability benefits from a maximum of $119 to $149 a week. **Youth labor. AB 1398** *(Lockyer)*. Appropriates $5 million to help provide jobs for youths under 24.

ENVIRONMENT

Oil recycling. SB 68 *(Smith)*. Requires recycling of used oil. **Aerosols. SB 153** *(Dunlap)*. Prohibits sale of aerosol containers using fluorocarbon propellants after April 15th, 1979. **Desert plants. AB 268** *(Lewis)*. **and SB 84** *(Rains)*. Protects native desert plants by requiring permits for their removal. **Water bonds. AB 399** *(McCarthy)*. Places $375 million water-conservation bond issue on ballot. **Retirement. AB 457** *(Deddeh)*. Provides $12 a month increase in benefits for retired state employees. **Drought. SB 469** *(Alquist)*. Provides loans for farmers hurt by the drought. (Governor Brown reduced the appropriation from $5 million to $1 million.) **Other drought bills** include **AB 776** *(Fazio)*, **SB 1033** *(Vuich)*, **AB 395** and **AB 380** *(Gualco)*, **SB 358** *(Nejedly)*. **Striped bass. SB 598** *(Behr)*. Makes it illegal to trade in striped bass unless the fish is propagated artificially.

Litter control. SB 650 *(Nejedly)*. Enacts major litter-control and recycling act, and raises $17 million a year from businesses dealing in items to be recycled. **Impact reports. AB 884** *(McCarthy)*. Streamlines the state's environmental review and permit process. **Park funds. AB 924** *(Gualco)*. Appropriates $52 million for park acquisition and development (reduced by $14 million by Governor Brown). **Liquefied**



natural gas. SB 1081 *(Alquist)*. Gives Public Utilities Commission exclusive power to issue permit for liquefied natural gas terminal, presumably at Point Conception in Santa Barbara County. **Bears. AB 1448** *(Statham)*. Bans sale of bear products in California; also bans sales of animals taken under a hunting license. **Solar energy. AB 1558** *(Hart)*. Provides significant increase in tax credits available to those who install solar energy devices. **AB 1512** *(Fazio)*. Establishes guidelines for the installation of solar equipment. **Suisun Marsh. AB 1717** *(Fazio)*. Provides for preservation of the Suisun Marsh at the north end of San Francisco Bay. **Nuclear plants. AB 1973** *(Norman Waters)*. Permits uniformed guards at nuclear plants to carry guns at all times.

FINANCE

Home loans. AB 51 *(Fenton)*. Increases maximum Cal-Vet home loan from $35,000 to $43,000. **Tax conformity. AB 302** *(Brown)*. Brings many of California's income-tax laws into conformity with federal income tax laws (including one which exempts legislative expense allowances from taxation). **Budgeting. SB 337** *(Dennis Carpenter)*. Provides for pilot program of zero-based budgeting in the 1978-79 fiscal year. **Tax returns. AB 502** *(Chel)*. Eliminates requirement that couples earning less than $10,000 a year file income-tax returns. **Housing rehabilitation. SB 514** *(Marks)*. Gives property tax aid to those who rehabilitate central-city homes. **Cal-Vet. AB 576** *(Lehman)*. Increases the maximum Cal-Vet farm loan from $80,000 to $120,000. **Utility refunds. SB 604** *(Stull)*. Requires that utility rebates be paid on an equitable pro-rata basis to all customers, not just to residents.

Medi-Cal deficit. SB 718 *(Nejedly)*. Appropriates $28 million to meet increased Medi-Cal costs. **Credit unions. SB 771** *(Garamendi)*. Increases maximum loan by credit union from $20,000 to $100,000. **Salary hikes. SB 884** *(Rodda)*. Gives pay raises to all state constitutional officers except the Governor (provision for five-percent annual cost-of-living increases eliminated by Governor Brown). **Senior citizens. AB 1070** *(Chel)*. Gives homeowners over 62 the option of postponing payment of property taxes, which would be

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collected when the property is sold. **Legislators' pay. AB 1396** *(Papan).* Boosts annual salary for legislators from $23,232 to $25,555, effective in December of 1978. **Van Nuys. AB 2028** *(Bane).* Allocates $1.2 million for acquisition of site for a state building in Van Nuys. **Cal Expo. AB 2038** *(Fazio).* Appropriates $2.4 million for purchase of long-term contract with amusement operator at the State Fair in Sacramento.

HEALTH AND WELFARE

Pharmacists. SB 59 *(Alquist).* Allows pharmacists to take blood pressure and advise people to consult physicians. **Hospital expansion. AB 245** *(Berman).* Places new restrictions on the remodeling of hospitals and the purchase of major pieces of equipment. **Health department. SB 363** *(Gregorio).* Reorganizes the Health and Welfare Agency and the Department of Health; divides Department of Health into five parts. **Pregnancy. AB 1069** *(Goggin).* Enacts the "Pregnancy Freedom of Choice Act" giving women under 21 an economic option to abortion. **Child care. AB 1288** *(Lockyer).* Appropriates $11 million over two years for improved child-care programs. **Medi-Cal. AB 1611** *(Chel).* Establishes new category of provider — the adult day health center — under the Medi-Cal program. **Health plans. AB 1693** *(Keene).* Gives the state closer supervision over prepaid health plans and prohibits door-to-door solicitation of enrollees.

TRANSPORTATION

Highways. AB 402 *(Ingalls).* Gives Legislature line-item control over the state highway budget, consolidates various transportation boards into new California Transportation Commission. **Rail service. SB 429** *(Alquist).* Allows 100-percent state financing of commuter rail projects and gives high priority to the Monterey-San Francisco and San Jose-Santa Cruz corridors. **BART tax. AB 1107** *(McCarthy).* Makes the special half-cent sales tax in the Bay Area Rapid Transit District permanent. It would have expired next year. **Railroad discounts. AB 1853** *(Papan).* Authorizes government agencies to buy tickets on the Southern Pacific commuter line between San Jose and San Francisco and resell them at a discount.

MISCELLANEOUS

Grocery checkout. SB 32 *(Roberti).* Requires grocery stores using automated checkout systems to put the price on every item through 1979. **Privacy. SB 170** *(Roberti).* Provides individual protection against invasion of privacy through revelation of state file information. (Brown vetoed a similar bill last year). **Horse racing. AB 194** *(Chimbole).* Increases from three to five the members of the Horse Racing Board and requires that the board headquarters be located in Sacramento. **Sex changes. AB 385** *(Brown).* Authorizes birth certificate changes for those who have undergone sex-change surgery. **New museum. AB 420** *(Hughes).* Establishes the California Museum of Afro-American History and Culture within the California Museum of Science and Industry. **Rumford Act. SB 610** *(Dunlap).* Expands coverage of the Rumford Act prohibiting discrimination in the sale or rental of housing units. **New counties. SB 700** *(Roberti).* Changes procedure for creating new county.

Olympics. SB 1040 *(Beverly).* Exempts Los Angeles from filing environmental impact report in its bid for the 1984 summer Olympic Games. **Mexican liquor. SB 1110** *(Dennis Carpenter).* Allows person entering California from Mexico by car to import one quart of liquor, making California law consistent with federal law. **Capitol plan. AB 1211** *(Fazio).* Establishes new master plan for the development of the Capitol area. **Public advocacy. AB 1310** *(Berman).* Allows the award of legal fees in cases where the public receives significant benefits. **Mansion. AB 1685** *(Vicencia).* Permits use of the vacant governor's mansion for state activities.

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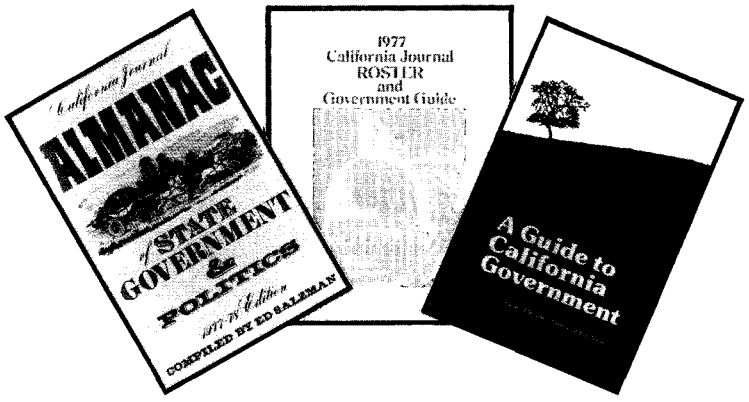

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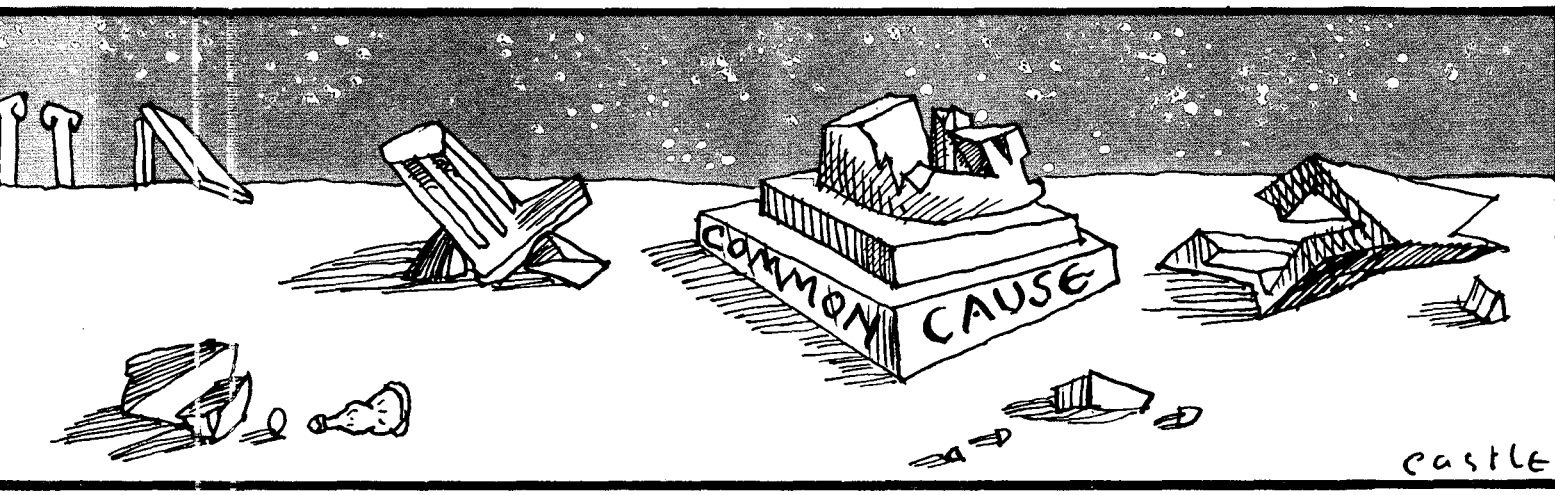
California sunset of Common Cause?



By JAMES FAY and ARTHUR LIPOW

In the June 1974 primary election, Common Cause showed itself to be a potent force in California politics. As a key sponsor of Proposition 9, the Political Reform Act, Common Cause could justifiably see itself as a Hercules cleansing California's political stables. San Diego attorney Michael Walsh, who as chairman of Common Cause headed the campaign for Proposition 9, was hailed by the *Los Angeles Times* as "one of California's most influential political leaders." After all, the Common Cause-sponsored Political Reform Act was the most sweeping law of its kind passed in any state, and it passed despite opposition from business, labor and most of the political establishment with the exception of Governor-to-be Jerry Brown.

To the leadership of Common Cause it seemed as if the organization's horizons were virtually unlimited. Its most important goal, the public financing of elections in California — toward which Proposition 9 had been seen as the preliminary step — appeared to be attainable. Common Cause's assets were impressive: It had more than 60,000 members in a state in which organized political parties are notoriously weak; a budget of nearly $200,000; an eight-person paid staff working out of its San Francisco headquarters; scores of volunteers, many of whom devoted full time to the organization; and the political capital gained from the Proposition 9 campaign. It was hard to fault Common Cause for its optimism.

Today, three years later, that optimism seems to have shrunk, as has Common Cause's membership, which is down to 45,000. The self-proclaimed citizens' lobby has seen its budget reduced 25 percent, while the entire statewide organization has undergone a radical shakeup. Michael Walsh is no longer chairman, although he remains active on the national Common Cause board. His place has been taken by a relatively unknown Oakland attorney, Gary Sirbu. Scott Fitz-Randolph, the executive director hired in the wake of the 1974 victory, quit; longtime staffer and lobbyist David Arthur has resigned; and the board of more than 20 members has been replaced by a "streamlined" group of eight. Most of the volunteers who made the San Francisco state headquarters a beehive of activity have disappeared with the closing of that office. The congressional district organizations, which some had hoped would develop into important local power bases for Common Cause, have been relegated to the more limited purpose of serving as the national organization's network to lobby Congress. Amid such turmoil, some of the top leadership now admits that prospects for the passage of public financing legislation in California are cloudy.

Walsh and Sirbu assert that the changes in Common Cause's operation in California, as well as in other states, are the result of a decision by Common Cause's national board to focus the organization's energies on the passage of federal legislation, such as public financing of congressional campaigns. There can be little doubt that the candidacy and election of Jimmy Carter were regarded by Common Cause leaders as an opportunity to secure national reform legislation which had not been possible during the Nixon-Ford years. Thus the triumph of an "outsider" like Carter — which Common Cause hailed as proof of the success of its presidential finance law — was also seen as a victory for the politics of Common Cause, even though the organization did not and could not formally endorse him.

The emergence of Carter undoubtedly played an impor-

James Fay is an associate professor of political science at Hayward State University and a member of Common Cause. Arthur Lipow is director of the Political Reform Evaluation Project in Berkeley.

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tant role in the national Common Cause decision affecting the California organization, but the evidence at hand indicates that California Common Cause was already in decline. And there is some evidence that the whittling down of the state operation was not at all unwelcome to the national leadership, which has always regarded Common Cause primarily as a national lobbying organization and which found itself worried about the possibilities of a runaway state or local leadership. For example, the attempt of California Common Cause to endorse Proposition 15, the anti-nuclear initiative, was aborted by the strenuous objections of the national staff.

Scrubbed for surgery

The rapid reversal of fortune, which California Common Cause seems destined to share with a host of bygone political reform organizations, is rooted in the nature of such groups. First, their heterogeneous membership is unified and motivated behind a narrow range of clean-up-the-process issues. When such issues cease to be compelling — for whatever reasons — the membership loses interest. As one wag commented, Common Cause is like a would-be surgeon who vigorously scrubs himself and his patient to ensure the highest standards of hygiene before surgery, but who, once the scrubbing is completed, is immobilized because he doesn't know how or where to operate.

Common Cause has manifested a second weakness characteristic of political reformers: the inability to grasp the connections between political cause and effect; a failure or unwillingness to think through the consequences of their proposed reforms. Proposition 9, the centerpiece of the recent reform movement, was hastily drafted by a coterie of attorneys from Common Cause and then-Secretary of State Brown's office. Uninformed about the history of reform in California, they drafted an initiative which would ostensibly clean up California government. However, as Ken Smith, director of the Proposition 9 campaign for Common Cause, later said, the drafters' overriding concern was for a statute that would stand up to a court challenge; the implications or consequences of the initiative measure were rarely discussed or considered. "We wanted to get it out," said Smith, because of the opportunity which Common Cause felt Watergate had given them to secure passage of reform legislation.

One major result of this haste is that Proposition 9 — as one might expect with any extremely complicated measure drafted without benefit of the legislative process — has had a number of consequences which many of its sponsors did not anticipate. Judging by testimony before the Fair Political Practices Commission, a strong case can be made that the Political Reform Act has hindered grass-roots campaign activity and the activities of small, non-commercial "public interest" lobbyists, while exercising negligible restraints on the well-financed candidates and lobbyists over whom the Reform Act was to have had control. There is bittersweet irony in the statement of a lobbyist for a large national corporation who notes, "Proposition 9 is the best thing that ever happened to us because it gives us the opportunity to present our case on its merits to the legislators." Proposition 9 may have curbed wining and dining by some lobbyists, but as one top former Common Cause staffer, who had himself played a key role in its passage, admitted in a recent interview, it has done little to affect the substance of political influence in Sacramento. What Proposition 9 did establish, much to the dismay of some of its initial supporters, is a large, sometimes unwieldy bureaucracy which operates as a kind of benevolent czar over California politics, but which could become a full-blown political control commission — a "policeman" in politics, as Ed Koupal, the late chairman of the Peoples' Lobby, once described it.

Internal autocracy

The third flaw in the organization is structural. Common Cause might have been able to redirect some of its strength had it been able to more effectively tap the energy of some of its more active members. In addition to the short leash on which the national organization has always tried to keep the state organization, the most important factor preventing the emergence of a powerful organization has been its organizational character. The blunt truth is that despite its preachments about "democracy" and "participation," Common Cause is not itself an internally democratic organization. Even the chance for members to disagree with the organization's position on key issues is greeted negatively by some leaders. One top Common Cause staff worker suggests that any member who has significant policy differences with the reform group should quit, rather than try to work within the organization to change its direction. Another activist and board member acknowledges, "You have to run this organization in a very autocratic way to make it function." Rather than a functional strength, however, this lack of internal democracy has been an Achilles heel for Common Cause.

The Common Cause state board is not elected but is chosen by a selection committee appointed by the board chairman. In theory the board is guided by the issue preferences of California members who respond to a national Common Cause poll. In fact, some board members have never seen the poll results and state frankly that such results might well be ignored if they conflicted with what the appointed board members felt were their own priorities for the organization. In any case, a poll is not a substitute for democratic decision-making. There is a contradiction in the fact that Common Cause, on the one hand, battles to open up the system and make democracy function through greater public participation — and on the other runs its own organization as a benevolent autocracy with a very limited kind of participation for its own state members.

A fourth important factor associated with the decline of Common Cause surfaced some three years ago but was masked in the euphoria surrounding Proposition 9. Common Cause was the group most closely identified with the victory of Proposition 9 and essentially ran the campaign after the initiative qualified for the ballot. But with all of its presumed clout, Common Cause was unable to obtain even half of the signatures needed to qualify the political reform initiative. This role was assumed by the now semi-moribund Peoples' Lobby, an organization with only a handful of members but a mastery of the techiniques of qualifying bal-

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lot initiatives. Common Cause, with a far larger membership, could not mobilize its own upper-middle class people, most of whom saw their "memberships" as limited to an annual $15 contribution.

Given this litany of assorted but not well-recognized limitations, the Common Cause state leadership began, in 1975, to pursue its goal of partial public financing of elections. It already had lost six months in an internal reorganization which saw the departure of its competent director, Ken Smith. Partly because of strong opposition from various liberal groups, and partly because many legislators believed the proposed public financing bills were far too complex and unwieldy, the campaign stalled. Common Cause was even forced to oppose one bill for public financing because it contained strong pro-incumbent features.

Some members of the Common Cause leadership — like Robert Girard, the Stanford law professor who was chief drafter of Proposition 9 and the public financing bill — believed that the Legislature would never pass a satisfactory bill. They began in late 1975 to press for a Common Cause initiative campaign which would go over the heads of a recalcitrant Legislature.

The Valentine's Day massacre

The issue came to a head at a crowded board meeting at a San Francisco airport motel on Feburary 14th, 1976 — a day which some Common Cause members later called the "Valentine's Day massacre" because of the stunning defeat which the leadership was dealt. The proposal was simple: Common Cause would put all of its energies into a petition campaign to qualify a public financing bill for the November 1976 ballot. Then came the shocker: Because time was short, it would be necessary to hire circulators or, as coordinator Al Haas sheepishly termed them, "paid volunteers." Someone shouted, "You mean mercenaries," and the battle was on. Haas, in a statement which must be rated as one of the most ironic admissions for an organization used to praising "volunteers," put the case for the paid circulators: "There must be no chance to fail and the only way to avoid the possibility of failure is to be . . . prepared to hire a corps of people who will work not when it is convenient — not the eight and a quarter hours per week that our volunteers will . . . Money can't buy everything, but I think that it's important for us to realize that there are some things that can't be achieved without money. That's particularly germane to us talking about campaign finance . . ."

The phrase "paid volunteer" became the battle cry of the opponents of the initiative campaign. Clara Link of Pasadena, a longtime member of the board, stated the case in terms consistent with the Common Cause ideology: "I'm totally opposed to paying for signature gathering. As I understand it, Common Cause is a volunteer organization. We have paid staff, which we need, but I'm certainly against any mercenaries going out to gather signatures, and one of the main reasons is that it simply wipes out our vision of ourselves as a volunteer organization. . . Keep it volunteer, keep us clean. I don't want to be contaminated with paying any volunteers."

The clearest statement of the issue, from the standpoint of organizational necessity, was voiced by state board chairman Mike Walsh: "I don't think if we are going to be a meaningful organization we are ever going to be (anywhere) but in the middle of high risk propositions . . . When I became chairman of this organization . . . we were into Proposition 9 and we had gotten into it without any kind of rational thought put forward . . . and what we did was, we said, 'we're going to scramble and we're going to do it.' . . . If we pass a public financing omnibus measure in 1976 . . . we would in fact be an organization to be reckoned with politically in this state . . . I invite you to think long and hard about where in the hell this organization is going, and what we're going to do to really be worthy of the position we find ourselves in nationally and in this state, and that we don't succumb to the kind of thinking that requires 90 percent certainty in order to take substantial risks. Because we ain't going nowhere if that kind of philosophy is the essence of our being."

Despite Walsh, the board rejected the public financing initiative campaign 15-6. His warning turned out to be prophetic: In 1976, a general election year, Common Cause's membership, income and activities declined. An unsuccessful public financing intitiative campaign might well have turned out to be more disastrous for the organization; but without it there was nothing left for the California organization and membership to do, except to wait for a new opportunity in the Legislature in 1977 or to return, once again, to its earlier subordinate role as the agent of the national organization's lobbying effort. Some indication of what might have happened if California voters had had the opportunity to vote on the question of public financing of elections can be seen in the overwhelming defeat of a public finance initiative in Oregon in 1976. One top Common Cause leader admits candidly that Common Cause made a conscious effort to keep news of the defeat, which was not widely reported, from their own members and the California public, not to mention the legislators.

Finding new issues

Common Cause now faces an organizational crisis. In the backlash of Watergate, the group essentially fulfilled its limited agenda of ostensibly increasing the openness and accountability of our legislative institutions. But openness or "sunshine" issues are relatively noncontroversial. As Watergate recedes into history, finding new issues will be no easy task. Already the California board is groping amidst a potpourri of "process" issues, such as judicial reform, many of which have been bandied about by reformers for decades. It is doubtful whether a new agenda to hold the membership and attract media and public attention can be developed in the absence of a new series of scandals.

Political bosses of an earlier era rarely worried much about the impact of reforms. The bosses knew the reformers would get bored or disillusioned by their crusades and return to their upper-middle class pursuits. The bosses were eventually able to circumvent many of the reformers' roadblocks and even, frequently, turn them to their own advantage, because politics and the influence of what reformers call the "special interests" is a more complex phenomenon than the good-government advocates realize. There are no old fashioned bosses battling political reform in California or preventing Common Cause from pursuing its goals. Indeed, Common Cause tends to subvert its own reform ideology by confusing regulation of politics with correction of the fundamental problems of the political system.

So historians will probably remember Common Cause as that well-intentioned organization whose "reforms" imposed a bewildering system of bureaucratic regulation upon the political process. It may be that a subsequent generation will have to undo these reforms, as the early twentieth century California "reform" of cross filing had to be undone in the 1950's.

In reacting to the malaise of American politics, Common Cause may have contributed to the problems it attempted to overcome, by imposing additional bureaucratic rigidity upon government and thereby further reducing its responsiveness to the people. As the distinguished political scholar Theodore Lowi noted, the legacy of reform is the bureaucratic state.

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COMMON CAUSE RESPONSE:

Not dying, just streamlined

Because of the critical nature of the preceding article, the Journal *editors offered Common Cause an opportunity to respond. The organization's comments were written by state chairman Gary M. Sirbu, an Oakland lawyer and former assistant public defender in Alameda County.*

In August of 1963 President Kennedy sent two representatives, one military, one civilian, to South Vietnam to assess the military-political situation there. On their return, the general reported that the war was going "beautifully" and the Diem regime "beloved by all the people." The civilian reported that South Vietnam was in a "desperate state," and the Diem regime "on the edge of collapse."

Questioned the President: "Were you two gentlemen in the same country?"

Upon reading Messrs. Lipow and Fay's article, this well-known Kennedy anecdote was the first thing that came to my mind. I couldn't help but think that Lipow and Fay must be writing about some other organization in some other place.

As chairman of California Common Cause and an elected member of the national governing board of Common Cause, I am extremely enthusiastic about our organization's present and future. In five of the last six months our Common Cause membership has increased; our 1977 fundraiser among our members was our most successful effort ever; our state board is focusing on new and challenging issues; our activists have played indispensable roles in several Common Cause successes this year, such as ousting Florida Congressman Robert Sikes from his chairmanship of the military construction subcommittee of the House Appropriations Committee, and passing ethics codes in both houses of Congress.

And yet, in the midst of this enthusiasm, I read that the sun has all but set, and that only the burial remains. It is almost funny and, frankly, almost unworthy of rebuttal.

However, the Lipow and Fay piece is at the same time a most disturbing one. Not because of the criticism involved, which must be welcomed in any open and maturing organization; but because of the massive dosage of misinterpretation, selective distortion and omission, internal inconsistencies, and remarkably unsubtle personal vindictiveness expressed in the piece.

It is significant to note in this regard that the authors are not simply two individuals who came in to take an objective, open-minded look at California Common Cause. Both have vigorously taken issue with the basic precepts of our organization and its accomplishments for a long time. Lipow has been a vocal critic of Propositon 9 almost since its inception (see "Political reform as a danger to democracy," *CJ*, August 1975). And Fay has repeatedly testified before the state Legislature against Common Cause-sponsored bills for the public financing of California elections.

An ax to grind?

I believe it is clear from their article that Messrs. Lipow and Fay have more than a point to make about California Common Cause: They have an ax to grind.

Given these circumstances, I shall make no effort to refute each and every charge. Rather, I shall content myself with highlighting, by example, some of the most distorting techniques employed by the authors. I trust that readers will view the unanswered charges and innuendoes in that light.

The primary Lipow and Fay technique is that of deliberate omission. They write, for example, that as part of a reorganization effort, California Common Cause closed its San Francisco office. The implication, clearly, is that the move was forced by financial and organizational decay.

Conveniently omitted from the analysis is the fact that — in an effort to expand our California legislative capacity — we decided to replace our San Francisco office with a much more appropriately based office in Sacramento. (As part of the same reorganizational process, we made our Los Angeles office a state office, in large part because of the heavy concentration of members in the Los Angeles area.)

Similiar glaring omissions and distortions are involved in Lipow and Fay's description of California Common Cause's shrunken membership and budget. True, our membership is down from 1974, a year in which Proposition 9 (a California reform act of unprecendented scope) as well as the first presidential resignation in American history combined to make political reform one of America's most visible and urgent priorities. To expect any organization or movement to maintain

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such a peak is to expect the near impossible.

The fact remains that since that inevitable, post-Proposition 9 Watergate decline, California Common Cause's membership has stabilized at an extraordinarily high 46,000, and has, in fact, as I noted earlier, increased during the last six months.

Nor is there any real evidence to support the Lipow and Fay assertion that members have lost their interest or their willingness to lend broad-based support to the organization. Indeed, if there is one statistic of which we are most proud, it is that 95 percent of Common Cause's funding comes from $15 membership dues and other small contributions.

Internal democracy

There is also the matter of basic inconsistency in the Lipow and Fay piece, specifically the charge of internal "autocracy." All California Common Cause board meetings are open and publicized; there is constant feedback between board, staff and activists; extensive national polls of membership views are conducted on a regular basis. Very few activists have ever complained about the internal workings of the organization.

How can Lipow and Fay argue autocracy when the one internal decision-making process they describe is a striking example of internal democracy? There, after all, was a "crowded" San Francisco board meeting in which all views on California Common Cause's most pressing decision were fully and vigorously aired, and in which the leadership — in Lipow and Fay's own words — suffered a "stunning defeat."

There is also, in Lipow and Fay's piece, a truly astonishing misunderstanding of the origins and purposes of Proposition 9. The insinuation that our consultations on the proposition's substance were merely public relations efforts is, in a word, outrageous. Hundreds of hours were spent drafting the measure and consulting with concerned individuals and organizations. Their further charge of a failure to anticipate consequences simply reflects Lipow and Fay's own misconceptions about the goals of Proposition 9 and the nature of political reform in general.

Proposition 9 was never intended to be a complete panacea. It was, and is, primarily a disclosure mechanism. The initiative provided an informational base for further reforms, enabling the public to know precisely what corrective measures are required. As the *Los Angeles Times* described the Fair Political Practices Commission's 470-page campaign financing report, it is "sure to become an invaluable research tool . . ."

As rich a research tool as it might be, Proposition 9's most far-reaching effect has been the wholly unprecedented view its disclosure provisions have given citizens into the pivotal relationship between money and political outcomes.

Certainly there are problems with Proposition 9. Some of the initial paperwork required by the act may have been overly burdensome. There have also been problems involving auditing and campaign filings. While many of these problems reflect "growing pains" in implementing a new body of legislation, they must still be taken seriously. The Fair Political Practices Commission, California Common Cause and concerned legislators have already advocated and are continuing to advocate adjustments in Proposition 9. But it is nothing less than absurd to deny the huge and positive steps toward governmental openness and accountability that were, and are, the chief objectives and consequences of the measure.

Assessing the future

Finally, the failure to properly understand Proposition 9 as a beginning, rather than as an end, lies at the heart of Lipow and Fay's inability to properly assess the present and future California Common Cause. We are hardly, as these authors would have it, an organization in search of a cause. In fact, with a full-time lobbyist in Sacramento and with a "streamlined" and more efficient board of directors, we are now more prepared than ever to achieve a thorough and constant involvement in the California political process.

We are, as Lipow and Fay point out, aggressively pursuing legislation mandating the public financing of state elections. The enormous advantages of incumbency (73 out of 78 California state legislative incumbents seeking reelection in 1976 won); the escalating amounts of special interest dollars in our California elections (85 percent of the dollars spent in California elections last year were special interest dollars); and the overwhelming tendency of special interests to give to incumbents (8 to 1 in the 1974 Assembly general elections) continue to make public financing our number one priority.

We are also actively supporting, as Lipow and Fay do not point out, several pieces of "sunset" legislation, bills involving reform of the inititative process, a measure proposing the creation of an independent commission to recommend governmental salaries, a measure eliminating the two-thirds vote on fiscal matters, and legislation mandating a trial process for zero-based budgeting.

In the near future we expect to pursue legislation and/or an initiative to create an independent reapportionment commission. Such a commission would end the wholly unsatisfactory process by which state legislators draw their own district boundaries. We are also currently discussing the question of California political party reform, the opportunities for activists to involve themselves in local government accountability and reform issues, and the possible roles of a citizens' lobby in the energy policy-making process.

The future is hardly bereft of legislative and other challenges. Nor has the readiness of our members to tackle these challenges diminished in any way. We continue to maintain local phone trees, locally based press relations, and membership calling, letter writing and lobbying capacities in almost all of California's 43 congressional districts.

Despite all our nationally recognized successes — campaign finance disclosure, public financing of presidential elections, Proposition 9, ending the seniority system, congressional ethics codes — this capacity to communicate with and mobilize thousands of citizen-activists is really our proudest accomplishment and our unique contribution.

With this kind of membership support and activism we shall continue to grow, to think creatively, and, yes, reexamine ourselves periodically. That is as it should be. Making California government accountable to its citizens is, after all, a fluid and even volatile enterprise. As any successful organization knows, those who can't look inward and behind soon find they can no longer look outward and ahead either.

An easy way to order subscriptions and books

Master Charge, Visa and BankAmericard cards may be used to purchase subscriptions and books from the *California Journal*. When ordering, send just the card number — not the card itself — and we'll take care of the rest of the paperwork. Send your orders to the *Journal* at 1617 10th St., Sacramento 95814.

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California CAPSULES

Brown completes switch of position on unitary taxation

Completing a gradual change of position, Governor Brown sent a telegram to the United States Senate Foreign Relations Committee endorsing a treaty with England that would prevent California from using the unitary method of income taxation on multinational corporations. Brown said the loss to the state would be far less than the $125 million he had estimated early this year when he opposed the treaty on fiscal and states-rights grounds. Senator Alan Cranston also signed the telegram, which estimated the loss at $15-$20 million. (For background, see "Brown's quick switch," *CJ*, October 1977.)

Counsel claims nuclear laws may be invalid

Legislative Counsel Bion Gregory issued an opinion claiming that California's nuclear-safety laws, enacted last year in the heat of controversy, are unconstitutional because they intrude on federal regulation of nuclear plant hazards. The opinion, requested by Senator Alfred Alquist, has no force of law. Alquist said the three bills in question were "hastily passed and vaguely worded." State agencies implementing the laws must continue to do so unless and until the measures are invalidated by the courts. The laws were supported by utilities in an effort to head off Proposition 15, an exceptionally tough anti-nuclear measure on the June 1976 ballot.

Supreme Court approves $800,000 for public advocates

In a 5-2 decision, the state Supreme Court affirmed $800,000 in fees to two public-interest law firms for their work in the *Serrano v. Priest* school-financing case. Public Advocates Incorporated of San Francisco and the Western Center on Law and Poverty in Los Angeles will share the award. The court ruled that lawyers acting as "private attorneys general" may receive reasonable fees if their successful presentation of a constitutional claim results in benefits widely enjoyed by the citizenry. In dissent, Justice William P. Clark Jr. wrote: "Until today, California judges have entertained neither the dream nor the power to endorse a particular social program, appropriate the requisite money from the public treasury to fund it, and then order payment to those deemed deserving."

In another case, Chief Justice Rose Elizabeth Bird issued her first opinion since being sworn into office six months ago. In *Bailey v. Superior Court*, she wrote for a unanimous court that a judge cannot order the videotaping of a pre-trial deposition unless both sides agree.

Brown appoints review panels for new counties

Governor Brown appointed three commissions, each consisting of five citizens, to review the proposed creation of three new counties, two within the present Los Angeles County and one within Santa Barbara County. The commissions have six months to issue findings, although they may request extensions of six months. Thereafter, the proposals must be put to a vote. In order for a plan to succeed, it must be approved within the existing and proposed counties. The new counties would be: Los Padres, out of the northern half of Santa Barbara; South Bay, consisting of El Segundo, Manhattan Beach, Hermosa Beach, Redondo Beach, Torrance and Palos Verdes Estates; Peninsula, consisting of Rancho Palos Verdes and Rolling Hills.

Year-round schools can be expensive, auditor reports

The state Auditor General's office issued a report indicating that, based on a study of 11 districts, year-round schools can be more expensive than traditional education programs. The auditor concluded that year-round programs cost slightly more money unless they are used as a substitute for greater capital investment. About 120 of the 200 districts using the year-round system, however, claim they started using the program because of a need for additional classroom capacity.

NEWSMAKERS

Orange County Superior Judge **Bruce W. Sumner** and Congresswoman **Yvonne Brathwaite Burke** of Los Angeles announced their candidacies for attorney general. With the incumbent, Republican **Evelle J. Younger,** running for governor, there should be a large primary field. Sumner is a former Republican assemblyman who switched parties in 1971. Burke also is a former Assembly member. Both will have to give up their present posts to enter the race. Among other possible Democratic candidates: City attorney **Burt Pines** of Los Angeles, Assemblyman **Alister McAlister** of San Jose and District Attorney **Joseph Freitas** of San Francisco . . .

Richard Johnsen, the only avowedly pro-grower member of the Agricultural Labor Relations Board, resigned because he was "tired of hitting my head against the wall." . . . Former Assemblyman **George W. Milias** of Gilroy, an unsuccessful candidate for the GOP nomination for secretary of state in 1970, died in Alexandria, Virginia.

Chief Justice **Rose Elizabeth Bird** named Superior Judge **Joan Dempsey Klein** head of a special committee charged with studying court-congestion problems in Los Angeles County . . . In an unprecedented action, Bird appointed a municipal judge, **Erich Auerbach** of Los Angeles, as a temporary member of the state Supreme Court . . . Bird also used poetry to chide the Chancery Club of Los Angeles, a social group of lawyers, for not having any women members:

You're a microcosm,
in my humble estimation,
Of our society's dilemma
when dealing with discrimination.
Women members, it's been said,
you simply do not take
Unless, of course,
they've been hired
to jump out of a cake.

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A WASHINGTON PERSPECTIVE . . .

By Leo Rennert

Ambition unquenched

One of Jerry Brown's closest advisers was speculating recently about the circumstances which might prompt the California Governor to make another run for the White House in 1980. President Carter's political stock obviously would have to decline quite a bit, he said, but it would not necessarily have to reach bottom as a result of a first-magnitude crisis like Vietnam or Watergate. It might be enough if Carter just turned out be an ineffective bumbler like Gerald Ford and the country got bored with him, he explained. Brown then might see an opening to demonstrate that he is a much more exciting and dramatic political figure. Besides, waiting until 1984 could be even riskier because the country by then may be sick of Democrats and ready for a swing back to GOP rule.

Summing up the prospects of a 1980 Carter-Brown rematch, the adviser remarked: "Jerry Brown is a realist who is not about to tilt at windmills. But then what many people might view as tilting at windmills is not necessarily what Jerry Brown considers tilting at windmills." The moral is obvious: What conventional politicians might regard as a kamikaze operation or a Jerry Brown version of Mission Impossible might be quite a plausible venture in the eyes of California's highly unorthodox chief executive.

* * *

While the White House tends to share this assessment of Brown's instincts and intentions, it has been stumped so far in searching for ways to neutralize or deflect his presidential ambitions. For a while, the President tried a be-nice-to-Jerry approach suggested by Senator Alan Cranston, who likes to play mediator even against impossible odds. It was a strategy reminiscent of Gerald Ford bending over backwards to softsoap Ronald Reagan into not challenging him in 1976 — and just as effective.

The Carter camp, which never recovered from the humiliating defeats it suffered at Brown's hands during last year's late primaries, concluded that the wooing of Jerry Brown was a futile exercise. Outwardly, relations have remained cordial. Doors of executive agencies still are wide open to Brown emissaries. But direct communication between the President and the Governor, which never reached any great heights to begin with, has lessened considerably. More than nine months into his presidency, Carter still has not figured out how to strengthen his political base in California. Suspicious of Brown, the White House has made contacts with other party figures in the state like Jesse Unruh, James Mills and Leo McCarthy. But none has the power and, except for Unruh perhaps, the will to fill the void. The Carter camp also knows it must tread softly in dealing with such California surrogates lest Brown get the idea that he is being bypassed or undermined.

Still, with all the opportunities available to the White House, party leaders in and out of California are shaking their heads that Carter has not been able to deal more successfully with Brown or to build more strength in the Governor's own backyard. The President's in-and-out flight to Los Angeles last month for a fund-raiser was a badly bungled affair. The Carter-controlled Democratic National Committee planned it without advance consultation with Brown, then proceeded to antagonize state party leaders by running off with more than 90 percent of the take. And with no other California stops on Carter's itinerary, the trip left a supposedly "populist" President stuck with the uncomfortable image of someone who can find time to cross the continent to mingle with "fat cats" he excoriated during last year's campaign but who has become too busy or too isolated to spare a few minutes for the common folk.

Frustrated at their inability to handle Brown or to make significant inroads in his state, Carter aides have reverted to their fatalistic view that there is no way to exorcise the Governor's unquenched ambition. It's just a question now of digging in and waiting until he strikes. To the Brown camp, this has all the manifestations of paranoia. "It's ridiculous how these guys at the White House constantly look over their shoulders to see what Jerry is doing or is going to do," a high-level Brown aide remarked earlier this year. But, after a moment's reflection, he added: "When you think how we clobbered them in those primaries last year, perhaps if I were in their shoes, I'd do the same."

* * *

For his part, Brown is doing nothing to allay White House suspicions about his plans for 1980. As some of the Democratic Party's key constituent groups have begun to show great disenchantment with Carter, Brown has moved in unabashedly as their friendly protector and supporter. No sooner did Carter antagonize the women's lib movement by opposing public funding of abortions then Brown stepped in and insisted that California would continue the practice. While feminists were blasting the President for the paucity of women in high-level federal jobs, Brown appointed Rose Bird as California's chief justice. No sooner did the President push for stepped-up construction of nuclear power plants, and thereby incurring strong criticism from environmentalists, than Brown weighed in with a highly visible crusade for solar energy. Conversely, when Carter pleased environmentalists with his assault on expensive water projects, Brown waded in with his own multi-billion dollar California water plan to sop up agribusiness support.

While Blacks still grumble that the Carter Administration does not pay enough attention to their needs, Brown sends his top business aide, Richard Silberman, on a well-publicized trip to Washington to tell one and all of California's superior performance in cracking down against the "redlining" of inner-city neighborhoods by lending institutions. With unemployment still high, Brown joins Carter critics in calling for greater economic stimulus. And with the political power of the Sun Belt on the rise, here is Jerry Brown as leading champion of huge budgetary increases for space exploration — a course which would benefit not only the economy of his own state but also many other aerospace-dependent states like Texas, Florida and Alabama.

What is fascinating about all these Brown maneuvers is that they have no ideological coherence or pattern. The Governor is not crowding the President from either right or the left. As he so clearly demonstrated last year, Brown's politics are eclectic. He seizes whatever targets of opportunity are available and then bangs away. Whether Carter realizes it or not, he already is at the center of a one-man encirclement operation. Brown is coming at him from all sides.

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Message from the publisher

Dear subscribers,

Ever since *California Journal* was founded almost eight years ago, the price for an individual subscription to the magazine has been $15 a year. Until now, we have been able to resist the pressure to increase the price to provide additional revenue. Generous contributions from foundations, corporations and our subscribers have made it possible for us to offer the *Journal* at a below-cost rate. Unfortunately, California's drought has extended to our fundraising capacity. The foundations are telling us — and rightly so — that it is time we become self-supporting. Thus it is necessary now to institute a small rate increase to $18 a year.

The current year's budget for *California Journal* has been based on the assumption that we will not receive any significant grant support. To make this possible, we have made some cuts in personnel and production costs. These reductions, however, will not reduce the editorial quality of the magazine. We have considered alternatives to the budget cuts and the modest price increase. One of these alternatives was to take advertising. After careful evaluation, this potential source of income was rejected; some readers would have doubts about our claim that the magazine maintains a non-ideological viewpoint if we were to take advertising from corporations which lobby in Sacramento. The kind of advertising which would not present such a problem (books, professional cards, etc.) would not produce much revenue and might even lose money if the cost of sales staff is taken into account.

The readership of the *Journal* has grown steadily over the past four years. We now have more than 15,000 subscribers and a reputation for fairness and thoroughness of coverage. We are proud of our accomplishments, and our readers seem to share our pride. A random sample of our subscribers this year indicated an overwhelming willingness to accept a price increase to $18. Many of the respondents even expressed pleasure at being able to help us achieve the important milestone of becoming self-supporting.

The price increase will not be effective until January 1st so our current subscribers will have an opportunity to extend their subscriptions for one more year at $15 and to purchase gift subscriptions during the holiday season at the old rate. The $15 rate applies to extensions paid for in advance by check or credit card. The insert card in this magazine may be used to place orders. Please attach your mailing label or note the code numbers above your name. This offer expires on January 1st.

Because of the one-year extension offer, the price increase will produce relatively little revenue to the *Journal* in the first year. We will continue to solicit contributions from our subscribers to help us improve the *Journal*. Also, the *Journal's* parent organization, the California Center for Research and Education in Government, will continue to seek support for such activities as internship and fellowship programs, studies of governmental and political problems, educational seminars and book publishing.

We welcome suggestions from our readers on how we can sustain the *Journal's* economic health and improve its editorial content.

Sincerely,

Thomas R. Hoeber

THOMAS R. HOEBER
Publisher

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